

Investigative Report
STATE OF IOWA



CITIZENS' AIDE/OMBUDSMAN

**INVESTIGATION INTO THE TRANSITIONING OF REGGIE KELSEY
OUT OF IOWA'S FOSTER CARE SYSTEM**

TO: Director Jessie Rasmussen
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and

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RE: Case File 01 – 3487

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EXECUTIVE SUMMARY

Role of the Ombudsman

The Office of Citizens' Aide/Ombudsman (Ombudsman) is an independent, nonpartisan, investigative agency of the Iowa General Assembly. Its powers and duties are defined in Iowa Code Chapter 2C.

The Ombudsman investigates complaints against most Iowa state and local governmental agencies. The Ombudsman can investigate to determine whether agency action is unlawful, contrary to policy, unreasonable, unfair, oppressive, or otherwise objectionable. After an investigation, the Ombudsman may issue an investigative report, stating its findings and conclusions, as well as any recommendations for improving agency law, policy, or practice.

Reggie Kelsey Investigation

At the request of three Iowa legislators, the Ombudsman investigated the actions of the Iowa Department of Human Services (DHS) in the case of Reggie Kelsey. In conducting the investigation, the Ombudsman not only looked at the circumstances leading to Reggie's death, but examined the policies and practices of DHS generally in transitioning youth out of Iowa's foster care system.

The Ombudsman issued notice of investigation to DHS on July 23, 2001, approximately two months after Reggie's body was found in the Des Moines River. The Ombudsman also notified three other governmental entities - - Polk County Health Services, Inc. (PCHS), Heartland Area Education Agency 11, and Des Moines Public Schools - - of the investigation, since they may have had a role or involvement with Reggie's case.

The Ombudsman researched Iowa law and DHS rules and policies; reviewed procedures and practices of Polk County Health Services, Inc. (PCHS), Heartland Area Education Agency 11, and Des Moines Public Schools; interviewed numerous witnesses, including staff from DHS and other agencies; and examined documents and reports pertaining to Reggie's transition from foster care to adult services.

Issues

Given the Ombudsman's statutory role and responsibility, as well as the nature and extent of the investigation, this report focuses on those decisions or actions of DHS the Ombudsman finds to be contrary to law or policy, or unreasonable.

Following are the issues addressed in the report:

1. Whether DHS violated law or policy in moving Reggie to independent living?
 - a. Whether DHS assessed all available information concerning Reggie's ability to live independently?
 - b. Whether Reggie was "eligible" for independent living?
 - c. Whether DHS adequately planned for Reggie's possible failure at independent living?

2. Whether DHS' decision not to engage the Polk County Transition Committee was unreasonable?
3. Whether DHS' decision not to engage the Adult and Family Services Unit earlier was unreasonable?

Findings and Conclusions

DHS moved Reggie from a residential cottage to a group home in early-October 2000 to prepare him for independent living. One month before his eighteenth birthday, on January 15, 2001, DHS moved Reggie to his own apartment. DHS made the move before assessing all available information regarding Reggie's ability to live independently, as required by DHS rule. A review of that information, all of which was available to DHS at the time, clearly indicates Reggie was not ready for independent living. By DHS' own rule, 441 I.A.C. 202.9(1)(a), he was ineligible. Reggie's foster care worker overestimated Reggie's ability to live independently and, as a result, did not adequately plan for his possible, even likely, failure.

DHS' failure to assess all available information regarding Reggie's ability to live independently is indicated by the following:

- The varying and inconsistent reasons given by the placement provider and DHS staff for the move to independent living
- The lack of documented information from the placement provider to DHS regarding Reggie's progress and readiness for independent living in the nearly seven-week period preceding the move
- DHS' failure to consult Reggie's special education teacher or other school staff
- DHS' failure to consult Reggie's therapist or psychiatrist
- The timing and questionable value of the Daniel Memorial Assessment for Life Skills (an instrument used by DHS to determine a child's level of independent living skills)

To be eligible for independent living foster care placement, a child must meet certain eligibility criteria set out in DHS rules. Reggie did not meet five of the nine criteria.

- He did not meet his responsibilities under the court-approved Case Permanency Plan
- He did not refrain from involvement in illegal behavior
- He did not have the capacity to function outside the structure of a group care setting
- He did not have the potential to be financially or emotionally independent upon discharge from foster care
- He did not have (and his foster care worker did not seek) the approval of the worker's supervisor or the area administrator

Significantly, Reggie's foster care worker made the decision to move Reggie to independent living without benefit of supervisory review. DHS rule, policy, and procedure require not only a

review and approval by her immediate supervisor, but also a review and approval by the area administrator. DHS rule and policy require the worker's supervisor and area administrator to sign a specific form signifying their approval for independent living foster care placement. In Reggie's case, no form was signed. In addition, the DHS computer system set up to track foster care cases alerts the worker's supervisor to enter approval for placement. In Reggie's case, no such entry was made. In Reggie's case, the DHS system for supervisory review and approval failed.

The Ombudsman believes in the value of supervisory review. Engaging the supervisor and even the area administrator in the decision-making process gives the worker an additional, more experienced and holistic perspective in the collection and analysis of the relevant information. Obtaining supervisory review and approval serves two important functions. It checks the work of the worker in conducting the assessment and gives DHS another opportunity to review the child's abilities and determine whether the recommended move to independent living is indeed in the child's best interest.

Although neither DHS rule nor policy required Reggie's foster care worker to refer Reggie's case to the Polk County Transition Committee, the worker's decision not to refer his case was unreasonable. Members of the Transition Committee, which included the supervisor of DHS Adult and Family Services Unit, as well as representatives from PCHS, were not given the opportunity to assist the worker in planning Reggie's transition out of foster care. Transition Committee members also were not given the opportunity to explore and facilitate needed adult services; they were not given the opportunity to develop an individualized treatment/services plan for Reggie or explore the possibility of establishing legal guardianship for Reggie to begin at age 18. PCHS, the agency responsible for funding and facilitating adult services for Reggie, was never notified of the impending need and expense for such services.

Although neither DHS rule nor policy required Reggie's foster care worker to refer Reggie's case to the DHS Adult and Family Services Unit before Reggie failed independent living, the worker's decision not to refer his case earlier was unreasonable. The worker did not refer his case earlier because she thought Reggie would sign on for voluntary foster care beyond age 18. However, she knew he could change his mind and not sign on, even at the last minute. Furthermore, even if Reggie signed on, he may still have needed and qualified for some adult services. Waiting until Reggie failed independent living meant Reggie had no place to go, other than shelters. Waiting cost Reggie and the Adult and Family Services Unit valuable time in planning and preparing for needed services. Waiting not only caused a critical delay in services but also created additional anxiety for Reggie. On February 21, 2001, Reggie told school officials he needed a safe place to stay. According to school officials, he told them "if he didn't have a safe place he would go so far as to commit a crime, even murder someone so that he could go to jail, and have a safe place to stay."

Recommendations

The Ombudsman recommends the DHS make the following changes to its rules, policies, and practices:

1. Develop indicators or measurements for determining if a child meets the independent living eligibility criterion to "refrain from involvement in any illegal behavior," as provided in DHS administrative rule 441 - 202.9(1)(a)(5). Promulgate rule or amend policy to incorporate indicators or measurements into decision-making.

2. Develop indicators or measurements for determining if a child meets the eligibility criterion to have the “capacity to function outside the structure of a foster family or group care setting,” as provided in DHS administrative rule 441 - 202.9(1)(a)(6). Promulgate rule or amend policy to incorporate indicators or measurements into decision-making.
3. Develop indicators or measurements for determining if a child meets the eligibility criterion to have the “potential to be financially and emotionally independent upon discharge from foster care,” as provided in DHS administrative rule 441 - 209(1)(a)(7). Promulgate rule or amend policy to incorporate indicators or measurements into decision-making.
4. Redesign “Approval for Independent Living Foster Care Placement” Form 470-3186 to include check-off boxes for all eligibility criteria in DHS administrative rule 441 - 209(1).
5. Before completing Form 470-3186, consult with appropriate school personnel regarding the child’s ability to live independently. For children receiving special education services, consult with the child’s special education teacher or IEP review team. Develop a process for consultation and then promulgate rule or amend policy to incorporate the process into decision-making.
6. Before completing Form 470-3186, if the child is receiving mental health treatment or services, consult with the child’s mental health professionals regarding the child’s ability to live independently. Develop a process for consultation and then promulgate rule or amend policy to incorporate the process into decision-making.
7. Before completing Form 470-3186, request a written report from the placement provider giving reasons for recommending or not recommending the child’s movement to independent living; and then promulgate rule or amend policy to incorporate provider’s recommendation into decision-making.
8. Before completing Form 470-3186, consult with the child’s guardian ad litem regarding whether independent living is in the best interests of the child and whether the child is capable of living independently. Develop a process for consultation and then promulgate rule or amend policy to incorporate the process into decision-making.
9. Ensure through revision of current rule, policy and procedure that all decisions to place children in independent living receive a substantive supervisory review prior to placement.
10. Modify Family and Children’s Services (FACS) computer case tracking system to include the area administrator’s approval for independent living and the date of approval. Require the “approval” in FACS prior to any payments being issued to the independent living program provider.
11. Develop a Transition Committee similar in format, make-up, and function to the Polk County Transition Committee for other Iowa counties.
12. Refer cases of all children who may be eligible for adult services to the appropriate Transition Committee by age 17. Promulgate rule or amend policy to require such referrals.
13. Modify FACS to include “date of referral” to the appropriate Transition Committee.

14. Refer cases of all children who may be eligible for adult services to the appropriate DHS Adult Services Unit by age 17.9. Promulgate rule or amend policy to require such referrals.
15. Develop criteria for determining who may be eligible for adult services, and then promulgate rule or amend policy to incorporate the criteria into the decision-making and referral processes.
16. Modify FACS to include a “date of referral” to the appropriate DHS Adult Services Unit.
17. Develop instructions for workers on when and under what circumstances they should explore the possibility of seeking legal guardianship for children who are aging out of foster care. Promulgate rule or amend policy to include those instructions.
18. Annually report numbers of children entering and leaving independent living, statewide by county. Report number leaving voluntarily and number discharged. For each child discharged from independent living, report reasons for discharge. Assess the data as part of any evaluation of the independent living program or consideration for improving the effectiveness of the program.

OVERVIEW

Background

Reggie Kelsey entered and left Iowa's foster care system twice. He entered in April 1988 and exited in October 1990 when he was adopted by his foster care parents. He entered again in October 1997 and left three years later, on his eighteenth birthday, February 14, 2001.

He left the last time because he was discharged from his independent living arrangement and he had nowhere to go except for a shelter. According to his Iowa Department of Human Services (DHS) foster care worker, Reggie would have signed on for voluntary foster care after the age of 18 if he could have returned to his residential cottage placement. But his placement provider, Youth Homes of Mid-America (YHMA), did not have a place for him. Nor did YHMA want him back because his behaviors had become too problematic. So, Reggie did not sign on. Instead, he was left with shelters and, eventually, adult services. Because his foster care worker did not refer his case to the DHS Adult and Family Services Unit until after he failed independent living, he had to wait for adult services. He had to wait for a DHS adult services worker to determine his eligibility for services and his county of legal settlement. He had to wait until the worker could refer his case to Polk County Health Services, Inc. (PCHS) to provide case management, housing, and other services.

Reggie's behavior and willingness to accept mental health counseling deteriorated after leaving his residential cottage placement and entering a group home to prepare him for independent living. When he entered the group home on October 2, 2000, his mental health diagnoses included Attention Deficit/Hyperactivity Disorder, Conduct Disorder Adolescent Onset, and Depressive Disorder Not Otherwise Specified. After entering the group home, his anxieties got the best of him. Tensions and conflicts with peers escalated. His lying and stealing increased. He told his therapist he felt persecuted by his peers, they were hitting him and he wanted to blow up. He also told his therapist he was not sure why he was stealing; he felt stealing was compulsive.

Despite these behaviors and an inability to see the need for change, Reggie was moved to his own apartment on January 15, 2001. With more free and unsupervised time, his behaviors continued to worsen. He was caught stealing, lying, breaking curfew, missing school, and burning things in his apartment. On February 2, 2001, when he indicated to YHMA staff he no longer felt safe in his apartment, he was discharged from YHMA's independent living program.

Reggie was suspended twice from school, on January 26 for carrying a knife and on February 2, 2001 for theft. When he brought a knife to school the second time, on February 21, 2001, school staff recommended expulsion. He quit school and never returned.

Although his PCHS-funded case manager later helped him secure residential placements and arrange for other services, like transportation, medical, and mental health counseling, Reggie never corrected his behaviors. He continued to steal, he took illegal drugs, and he engaged in "survival sex." He left placements twice because he did not want to follow the rules. He told his case manager and others he was bored, he needed to be free, he liked living on the streets.

Reggie's body was found among debris in the Des Moines River on May 28, 2001. After conducting an autopsy, the Deputy State Medical Examiner concluded Reggie died by drowning and reported the manner of death as suicide.

Reggie's death raised questions and concerns for many people, particularly those who had known or worked with him over the years. Some criticized DHS for not doing a better job of transitioning Reggie out of foster care into adulthood and adult services.

Ombudsman Investigation

Ombudsman, William P. Angrick II, began an investigation after receiving a written request from Iowa House Representatives Betty Grundberg, David Johnson, and David Heaton, on July 17, 2001. The three Iowa House Representatives requested "an investigation of the Iowa Department of Human Services' actions in the case of Reggie Kelsey." They also asked the Ombudsman to "look at the circumstances leading to Reggie's death" and "examine the practices and procedures used by the Department of Human Services, the Area Education Agencies, and local school districts in transitioning youth out of Iowa's foster care system."

The Ombudsman issued notices of investigation to DHS, PCHS, Des Moines Public Schools, and Heartland Area Education Agency 11, on July 23, 2001. In the notices, the Ombudsman stated the scope of his investigation.

The scope of my inquiry will include, but not limited to:

- Specific services provided and actions taken regarding Reggie Kelsey
- Systemic review of policies, procedures, and practices related to individuals with mental disabilities transitioning through the age of majority

Included with each notice was a subpoena for relevant documents and records.

Investigative Process

Laws, Rules, and Policies

The Ombudsman reviewed relevant law, DHS and Iowa Department of Education administrative rules, as well as DHS policies. The Ombudsman also reviewed procedures and practices of PCHS, Heartland Area Education Agency 11, and Des Moines Public Schools.

Interviews

The Ombudsman contacted more than forty persons, and requested information and/or documentation. The Ombudsman interviewed thirty-six persons in depth, under oath. Persons contacted and interviewed included:

- Reggie's foster care worker, her immediate supervisor, and the service area administrator
- Reggie's DHS adult services worker and his supervisor
- Reggie's DHS transition planning specialist and his supervisor
- Other DHS staff, supervisors and administrators
- Reggie's PCHS-funded case manager
- Reggie's therapist and a child psychiatrist
- Staff at Youth Homes of Mid-America (YHMA)
- Executive Directors of Westminster House, Inc., and Mainstream Living, Inc.
- Reggie's special education teacher and school social worker

- Other staff at Des Moines Public Schools, supervisors and administrators
- Staff at Heartland Area Education Agency 11, supervisors and administrators
- Staff at PCHS, supervisors and administrators
- Staff at Iowa Homeless Youth Shelter
- Reggie's guardian ad litem
- Executive Director of the Youth Law Center
- Administrator of the Iowa Citizen Foster Care Review Board
- Investigative Officer, City of Des Moines Police Department

Follow-up interviews were conducted with several witnesses after the Ombudsman received new or additional information from other witnesses or documents.

For a listing of agency staff whose names are mentioned in the report, *see* Appendix A.

Documents

The Ombudsman reviewed several hundred documents and reports from a variety of sources, relating to Reggie's situation specifically and to the transitioning process generally, including:

- DHS Foster Care Unit
- DHS Adult and Family Services Unit
- DHS Transition Planning Program
- DHS Bureau of Performance Management
- YHMA
- Heartland Area Education Agency 11
- Des Moines Public Schools
- Polk County Health Services, Inc.
- Youth Emergency Services & Shelter
- Iowa Homeless Youth Center
- Polk County Juvenile Court
- Girls and Boys Town
- Job Corps, U.S. Department of Labor Employment & Training Administration
- Reggie's guardian ad litem
- Mercy Franklin Center's Child/Adolescent Mental Health Unit
- Orchard Place – Child Guidance Center
- Reggie's therapists and psychiatrists
- Adolescent Partial Hospitalization Program, Iowa Health System
- City of Des Moines Police Department
- Deputy State Medical Examiner

Investigative Report

Focus of the Report

The Ombudsman investigated the practices and procedures used generally by the Iowa Department of Human Services (DHS) in transitioning youth out of Iowa's foster care system. The Ombudsman also investigated the particular actions and decisions of DHS in transitioning Reggie Kelsey from foster care to adult services.

In reviewing DHS' actions regarding Reggie Kelsey from the date of foster care assignment to the date of referral to adult services, the Ombudsman noted three decisions that significantly affected Reggie's transition from foster care to adulthood and adult services: (1) the decision to move Reggie to apartment-based independent living, (2) the decision not to refer Reggie's case to the Polk County Transition Committee, and (3) the decision not to refer Reggie's case to the Polk County DHS Adult and Family Services Unit until after Reggie failed independent living.

Sections of the Report

The Ombudsman's investigative report is divided into nine sections:

- Overview
- DHS Foster Care System
- Transition Planning
- Research Studies and Statistics
- Recent Developments
- Chronology
- Analysis and Conclusions
- Recommendations
- Appendix

The "Overview" section provides an overview of the investigation, what information was collected and analyzed and what issues were addressed and resolved. "DHS Foster Care System" gives an accounting of the relevant law and policy directing and describing Iowa's foster care services. "Transition Planning" discusses the rules, policies, procedures, and practices of DHS, PCHS, AEA and local school districts in transitioning children into adulthood and adult services. "Research Studies and Statistics" offers information on national studies into the transitioning process, as well as nationwide and Iowa statistics on children entering and leaving foster care. "Recent Developments" details recent changes in federal and state law affecting the transitioning process, as well as local efforts to improve the process. "Chronology" presents the events in Reggie's life that are relevant and significant in understanding when and how Reggie transitioned out of foster care. "Analysis and Conclusions" applies relevant law and policy to the collected facts and states the Ombudsman's conclusions on the issues investigated. "Recommendations" offers proposed changes in rule, policy, and practice, which the Ombudsman believes will improve the overall transition process. "Appendix" is a collection of documents and other information referenced in the report.

Redactions in Report

Iowa Code section 2C.9 allows the Ombudsman to have access to information relevant to an investigation. The Ombudsman, however, is subject to laws pertaining to the disclosure of confidential or privileged information obtained in the investigation. The Ombudsman consulted with persons and entities or their attorneys in determining what information can be disclosed in the report, based on case law, and federal and state statutes and regulations applicable to the circumstances. As a result of those consultations, the Ombudsman has redacted the report to remove parts in the report that the Ombudsman can not disclose by law or is not otherwise authorized to disclose. The redactions are denoted by dash marks (----) in the report.

DHS FOSTER CARE SYSTEM

This section details the Iowa law, administrative regulations, DHS policies, procedures, and practices regarding children in foster care. The sections to follow will also address issues of transitioning foster care children out of the system in adult living, topical research statistics and study findings, and pertinent recent developments affecting the foster care system.

Throughout this section, unless otherwise noted, references to the DHS Manual will be to the version in place during Reggie Kelsey's placement in DHS custody between December 27, 1997 and February 14, 2001.

DHS Foster Care Services

Foster care services provide care that is normally provided by a child's family. The Department is committed to the principle that no child shall be removed from the family home unnecessarily. Both state and federal law recognize that foster care services for children are an essential component of child welfare services, but that children have a right to be treated in the least restrictive setting appropriate to their needs and should remain at home with their parents whenever possible.

Foster care services are a resource to families that are unable to provide adequate care for their children. The objectives of foster care are:

- A. To provide good care for the child on a temporary basis in a nurturing, stimulating environment.
- B. To help heal the hurts the child has suffered as a result of separation from the family, damage to self-worth through placement, and other events in the child's past.
- C. To make and execute a plan for the child's future.¹

Entering the System

Voluntary

DHS can accept custody of a child for a limited time (30 days) when the child is voluntarily presented to them by the parent or guardian. To retain legal custody and provide longer-term services to the child, DHS must obtain legal custody through court order. This is usually done through a Child in Need of Assistance (CINA) proceeding. The Department is responsible for services including foster care when the court has given the Department guardianship of the child.

Another procedure specifically for placement of a child with a mental illness or disability is found in Division XI of Iowa Code Chapter 232 "Voluntary Foster Care Placement." Section 232.175 states:

¹ DHS Manual XIII – J – 1.

Placement oversight shall be provided pursuant to this division when the parent, guardian, or custodian of a child with mental retardation or other developmental disability requests placement of the child for a period of more than thirty days. The oversight shall be provided through review of the placement every six months by the department's foster care review committee or by a local citizen foster care review board. Court oversight shall be provided prior to the initial placement and at periodic intervals which shall not exceed twelve months. It is the purpose and policy of this division to assure the existence of oversight safeguards as required by the federal Child Welfare Act of 1980, Pub. L No. 96-272, as codified in 42 U.S.C. § 571(a)(16), 627 (a)(2)(B), and 675(1), (5), while maintaining parental decision-making authority.

Action is started in these cases by a petition submitted by DHS that describes the child's emotional, physical, or intellectual disability which requires care and treatment, the reason the parent has requested foster care placement, and the commitment of the parent in fulfilling the responsibilities defined in the case permanency plan and how the placement will serve the child's best interests.²

An initial determination on the petition is made and dispositional hearing is held within twelve months. At that hearing, if the court determines the parent is not fulfilling the responsibilities outlined in the case permanency plan, the court may order the child remain in foster care and DHS to file a CINA petition.³

Delinquency

The juvenile court has exclusive jurisdiction in proceedings concerning a child who is alleged to have committed a delinquent act.⁴ Any person with knowledge of the alleged delinquent acts may file a complaint with the juvenile court. An intake officer will then make a determination of whether the complaint is legally sufficient for filing of a petition. If so, then the county attorney will be requested to file the petition.⁵

Children in Need of Assistance - CINA

The juvenile court has jurisdiction to hear child in need of assistance cases. Following an adjudication hearing, the court may determine a child to be a "child in need of assistance" based on one or more of the following grounds:

"Child in need of assistance" is a legal status determined through adjudication by a juvenile court which means an unmarried child:

A. Whose parent, guardian, or other custodian has abandoned the child.

² Iowa Code Section 232.178 (4)

³ Iowa Code Section 232.183 (5) (c)

⁴ Iowa Code Section 232.8 (1) (a)

⁵ Iowa Code Section 232.28

- B. Whose parent, guardian, other custodian, or other member of the household in which the child resides has physically abused or neglected the child, or is imminently likely to abuse or neglect the child.
- C. Who has suffered or is imminently likely to suffer harmful effects as a result of either of the following:
1. Mental injury caused by the acts of the child's parent, guardian, or custodian.
 2. The failure of the child's parent, guardian, custodian, or other member of the household in which the child resides to exercise a reasonable degree of care in supervising the child.
- D. Who has been, or is imminently likely to be, sexually abused by the child's parent, guardian, custodian or other member of the household in which the child resides.
- E. Who is in need of medical treatment to cure, alleviate, or prevent serious physical injury or illness, and whose parent, guardian, or custodian is unwilling or unable to provide such treatment.
- F. Who is in need of treatment to cure or alleviate serious mental illness or disorder, or emotional damage as evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior toward self or others, and whose parent, guardian, or custodian is unwilling or unable to provide such treatment.
- G. Whose parent, guardian, or custodian fails to exercise a minimal degree of care in supplying the child with adequate food, clothing, or shelter and refuses other means made available to provide such essentials.
- H. Who has committed a delinquent act as a result of pressure, guidance, or approval from a parent, guardian, custodian, or other member of the household in which the child resides.
- I. Who has been the subject of or a party to sexual activities for hire or who poses for live display or for photographic or other means of pictorial reproduction or display which is designed to appeal to the prurient interest and is patently offensive; and taken as a whole, lacks serious literary, scientific, political, or artistic value.
- J. Who is without a parent, guardian, or other custodian.
- K. Whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody.
- L. Who for good cause desires to have the child's parents relieved of the child's care and custody.
- M. Who is in need of treatment to cure or alleviate chemical dependency, and whose parent, guardian, or custodian is unwilling or unable to provide such treatment.

N. Whose parent's or guardian's mental capacity or condition, imprisonment, or drug or alcohol abuse results in the child not receiving adequate care.⁶

DHS, a juvenile court officer, or a county attorney may file a petition to begin a CINA proceeding.⁷ The court will summon parties to a CINA adjudication hearing in the same way as for a delinquency hearing. Summons will also be issued to DHS, a child placement agency, or other temporary custodian of the child.⁸ The county attorney represents DHS at this hearing and presents evidence in support of the petition.⁹

Guardian Ad Litem

Appointment

The court appoints a guardian ad litem and an attorney for the child in each case.¹⁰ The same person may fulfill both roles. If a conflict arises between the legal interests of the child (which the attorney must represent) and what is in the best interest of the child (the guardian ad litem's responsibility), the court will appoint separate individuals for each role.¹¹

The court may appoint a special advocate to act as guardian ad litem. The court appointed special advocate (CASA) is a person certified by the Child Advocacy Board to participate in the special advocacy program and represent the interests of the child. The CASA is a volunteer position and training is provided to volunteers about how to fulfill their role prior to assignment. The CASA files reports with the court but is not allowed to introduce evidence or examine witnesses in any hearing.¹²

Roles/Responsibilities

The guardian ad litem represents the interests of a child in any judicial proceeding to which the child is a party. The duties of a guardian ad litem include the following:

Conducting in-person interviews with the child, if the child's age is appropriate for the interview, and interviewing each parent, guardian, or other person having custody of the child, if authorized by counsel.

Conducting interviews with the child, if the child's age is appropriate for the interview, prior to any court-ordered hearing.

⁶ Iowa Code section 232.2 (6)

⁷ Iowa Code Section 232.87 (2)

⁸ Iowa Code Section 232.88

⁹ Iowa Code Section 232.90 (2)

¹⁰ Iowa Code Section 232.89 (2)

¹¹ Iowa Code Section 232.89 (4)

¹² Iowa Code Section 232.89 (5)

Visiting the home, residence, or both home and residence of the child and any prospective home or residence of the child, including each time placement is changed.

Interviewing any person providing medical, mental health, social, educational, or other services to the child, before any hearing referred to in subparagraph (2).

Obtaining firsthand knowledge, if possible, of the facts, circumstances, and parties involved in the matter in which the person is appointed guardian ad litem.

Attending any hearings in the matter in which the person is appointed as the guardian ad litem.¹³

The guardian ad litem is authorized to interview any relevant person and inspect and copy any records relevant to the proceedings, if not prohibited by federal law. The order appointing the guardian ad litem also specifies that the guardian ad litem may interview any person providing medical, mental health, social, educational, or other services to the child, may attend any departmental staff meeting, case conference, or meeting with medical or mental health providers, service providers, organizations, or educational institutions regarding the child, if deemed necessary by the guardian ad litem, and may inspect and copy any records relevant to the proceedings.

Dispositional Hearing

As soon as practicable after the adjudicatory hearing the court will conduct a dispositional hearing.¹⁴ The court will hear all relevant evidence, including whether services provided to facilitate the safe return of the child to the home are sufficient. The court must receive a social report at least two days before holding a dispositional hearing.¹⁵

Parents Retain Custody

At the end of the dispositional hearing, the court is to make the least restrictive disposition appropriate considering all the circumstances.¹⁶ The court may allow the child's parents to retain custody.¹⁷ Another option is to transfer custody to DHS for placement purposes.¹⁸

If the court allows parents to retain custody, it may do so subject to terms and conditions the court dictates to assure proper care and protection of the child. The court may order special treatment or care be provided for the child's physical and mental health. The terms and

¹³ Iowa Code Section 232.2 (22)

¹⁴ Iowa Code Section 232.99 (1)

¹⁵ Iowa Code Section 232.97

¹⁶ Iowa Code Section 232.99 (3), (4)

¹⁷ Iowa Code Section 232.101

¹⁸ Iowa Code Section 232.102 (1) (c)

conditions set by the court may continue for up to twelve months. Following a hearing, the court can extend the conditions for a maximum of two consecutive 12-month periods.¹⁹

Custody to DHS

If the court transfers custody to DHS, a Case Permanency Plan²⁰ must be prepared and submitted to the court. DHS is to make every reasonable effort to return the child to the home when consistent with the best interests of the child.²¹ If the child is ordered placed in foster group care, DHS will try to keep the child in Iowa and in the least restrictive, most family-like facility appropriate for the child's needs.

When the court determines that returning the child to the family home is not in the best interests of the child, and custody and guardianship is transferred to DHS, the court's dispositional order shall specify the kind of placement for the child and state how the court will monitor the placement.²² When the court has transferred legal custody of a child sixteen years of age or older to DHS for the purpose of placement, the order shall specify the services needed to assist the child in preparing for the transition from foster care to independent living.²³

Foster Care Placement Services

Eligibility

DHS provides foster care services only to persons meeting the definition of an eligible child.

"Eligible child" shall mean a child for whom the court has given guardianship to the department or has transferred legal custody to the department or for whom the department has agreed to provide foster care services on the basis of a signed placement agreement or who has been placed in emergency care for a period of not more than 30 days upon the approval of the director or the director's designee.²⁴

Iowa law defines child as:

"Child" means either a person less than eighteen years of age or a person eighteen or nineteen years of age who meets any of the following conditions:

- a. Is in full-time attendance at an accredited school pursuing a course of study leading to a high school diploma.

¹⁹ Iowa Code Section 232.101 (2)

²⁰ See section titled "Case Permanency Plan" of this report for further explanation of this requirement.

²¹ Iowa Code Section 232.102 (7)

²² Iowa Code Section 232.102 (7)

²³ Iowa Code Section 232.102 (1) (c). NOTE: This section of the Iowa Code was amended by the 2002 legislature. See Recent Developments section of this report for further details of this amendment.

²⁴ IAC 441 – 202.1; Iowa Code Section 234.1 (2)

- b. Is attending an instructional program leading to a high school equivalency diploma.
- c. Has been identified by the director of special education of the area education agency as a child requiring special education as defined in section 256B.2, subsection 1.²⁵

Reasonable Efforts to Preserve and Unify

DHS is required to make a reasonable effort to reunify the family. Iowa law defines “reasonable efforts” as:

Efforts made to preserve and unify a family prior to the out-of-home placement of a child in foster care or to eliminate the need for removal of the child or make it possible for the child to safely return to the family’s home. If returning the child to the family’s home is not appropriate or not possible, reasonable efforts shall include the efforts made in a timely manner to finalize a permanency plan for the child. A child’s health and safety shall be the paramount concern in making reasonable efforts. Reasonable efforts may include intensive family preservation services or family-centered services, if the child’s safety in the home can be maintained during the time the services are provided.²⁶

The court may waive the reasonable efforts requirement if certain circumstances exist, including when the parent has abandoned the child.²⁷

Types of Foster Care Placement

There are four types of foster care placement:

Foster Family Care – a single-family living unit in which an individual or a married couple provide board, room, and care for a child.

Foster Group Care – residential facilities that provide services to children who, because of social, emotional, or physical difficulties, are considered unable to live in a family setting.

Shelter Care – a physically unrestricting facility which is used only for the shelter of children. It is for temporary care between a child’s initial contact with juvenile authorities and the final disposition of the child’s case.

Independent Living – a supervised placement outside the parental home or other foster care placement facility.²⁸

²⁵ Iowa Code Section 234.1 (2)

²⁶ Iowa Code Section 232.102 (10) (a)

²⁷ Iowa Code Section 232.102 (12) (a)

²⁸ DHS Manual XIII – J – 51,52

Assessment

DHS workers are instructed to assess the needs of the foster child on various levels to determine the appropriateness of services being provided. This is an on-going process for all placements. Assessments include the educational, physical, psychological, social, family living, and recreational needs of the child and the family's ability to meet these needs.²⁹

Assessment and planning for any child includes coordination of the educational program. The DHS Manual instructs the worker to involve local school staff as appropriate. The worker is also to involve the area education agency (AEA) if special educational needs are identified or suspected.³⁰

DHS Placement

The importance in determining proper placement of the child is recognized in the following two paragraphs in the DHS manual:

Give special attention to minimize changes affecting the relationship of the child and significant adults. These include changes in frequency of contact with the service worker, transfer of the service worker, vacations of workers or foster parents, or the child's departure from foster care.

Such changes reactivate in the child fears of separation and change. They may lead to emotional upset or disturbances in behavior that may harm relationships with the foster family, school, friends, and birth family. With adequate preparation for changes and clarification of the reasons for it, the child will be better able to respond appropriately.³¹

DHS will only place children in foster group homes licensed with the state. DHS rules provide the guidelines for licensing of group foster homes and community residential facilities.³² The rules detail such items as size of the facility and food service. The rules also state staff requirements, program and other services to be provided.

Other Services

Other services provided by the Department include medical, psychiatric, psychological, and educational services. The Department must assess the child's needs before providing services. This includes educational, physical, psychological, social, family living, and recreational needs.

In order to obtain a psychiatric evaluation, DHS may temporarily place the child in a psychiatric medical institution for children. Although a social history is required to be submitted to the court

²⁹ DHS Manual XIII – J – 14

³⁰ DHS Manual XIII – J – 23

³¹ DHS Manual XIII – J – 73

³² IAC 441- 114

before disposition, a separate petition and hearing is required before the court will order a mental or physical examination.³³

When a child is placed in a foster care facility, such as a group home, the facility is to complete an assessment and prepare a written care plan. The plan identifies the child's special needs and describes the services provided to meet these needs.³⁴

After the initial care plan is submitted to the DHS worker, the service provider is required to send a quarterly progress report. The report will include description of the services being provided, client's progress toward established goals, and any recommendations for changes in the service plan or individual program plan for the child.³⁵

A facility may have both foster group home and child-placing licenses. The services provided may transition a child through a "level system" from a residential, cottage setting, to a smaller group home, into an independent living placement.³⁶

Case Permanency Plan

Purpose

According to DHS Manual, the case permanency plan identifies the goals, needs, problems, services, time frames for meeting goals and for delivery of the services to the child and parents, objectives, desired outcomes, and responsibilities of all parties involved, and reviewing progress.³⁷

Procedure

The case permanency plan is mandated by federal law.³⁸ It is designed to achieve placement in the most appropriate, least restrictive, and most family-like setting available and in close proximity to the parent's home, consistent with the best interests and special needs of the child, and which considers the placement's proximity to the school in which the child is enrolled at the time of placement. The plan is developed by the department or agency involved and the child's parent, guardian, or custodian.³⁹

Under Iowa law, the plan is to include:

³³ Iowa Code Section 232.98

³⁴ IAC 441 - 114.10 (2)

³⁵ IAC 441 – 150.3 (3) (j)

³⁶ Subheading "Independent Living" for further description of this placement setting.

³⁷ DHS Manual XIII – J – 24

³⁸ Iowa Code Section 232.2 (4) – Mandated by Pub. L. No. 96-272 and Pub. L. No. 105-89, as codified in 42 U.S.C § 622 (b) (10), 671 (a) (16), and 675 (1), (5).

³⁹ Iowa Code Section 232.2(4) – The CPP is mandated by Pub. L. No. 96-272 and Pub. L. No. 105-89, as codified in 42 U.S.C. § 622 (b) (10), 671 (a) (16), and 675 (1), (5).

When a child is sixteen years of age or older, a written plan of services which, based upon an assessment of the child's needs, would assist the child in preparing for the transition from foster care to independent living. If the child is interested in pursuing higher education, the plan shall provide for the child's participation in the college student aid commission's program of assistance in applying for federal and state aid under section 261.2⁴⁰.

Copies of the initial CPP and any subsequent plans are provided to the child, the child's parents, the foster care provider, the guardian ad litem, county attorney, and other interested parties identified on the Face Sheet of the CPP. If significant changes or problems arise before the next scheduled review, the DHS worker will amend the CPP and send a copy to all the people identified above.⁴¹

Frequency

DHS must file a written report with the court at least every six months concerning the status and progress of the child. The court holds periodic dispositional review hearings. The first review must be done within six months. Further reviews may be held at intervals of no more than twelve months.⁴²

The DHS Manual instructs the worker to, "update the Review section of the *Case Permanency Plan* at least every six months, or more often when there are significant changes or before any judicial or administrative review."⁴³

A permanency hearing is held within twelve months of the child being removed from the home. If the court has waived the reasonable efforts requirement, the permanency hearing will be held within 30 days of waiving the requirement.⁴⁴

Foster Care Review

Federal law requires a review "conducted by a panel of appropriate persons, at least one of whom is not responsible for the case management or the delivery of services to either the child or the parents." At least three people should take part in the review.⁴⁵

The aim of the review process is to promote a team approach to case planning. The ideal result is consensus among the participants. The review process also functions to hold all parties

⁴⁰ Iowa Code Section 232.2 (4) (f). NOTE: This section was amended in the 2002 Iowa legislative session by House File 2399. This amendment is discussed further in this report under the heading "Recent Developments."

⁴¹ IAC 441 – 202.15 (4), (6)

⁴² Iowa Code Section 232.102 (7), (9)

⁴³ DHS Manual XIIX – F – 16

⁴⁴ Iowa Code Section 232.104

⁴⁵ DHS Manual XIII – J – 28

accountable for their actions in relation to the case plan, to assess compliance with agency policies and procedures, and to expose gaps and problems in policy.⁴⁶

The review should address the following issues:

Evaluate the continuing necessity for foster care placement.

Evaluate the continuing appropriateness of the foster care placement.

Evaluate the extent of compliance with the case plan.

Evaluate the progress made toward lessening the causes for placement.

Project a likely date by which the child will leave foster care.

Review and update the child's health and education record.

Ensure that the child's physical record and report card have been furnished to the foster care provider.

Evaluate the written transition plan for independent living, if applicable.

“When special education needs are identified, the worker shall ... participate in staffings with the local and area education agency to discuss needs of the child, including both educational and foster care arrangements.”⁴⁷ School personnel see a foster care youth in a significantly different setting than other service providers and do this for a considerable portion of their day. Therefore, input from school personnel provides valuable information to DHS workers on how the youth is functioning.

If the court review falls outside of the six month period, the plan must be submitted to the review committee. DHS must also conduct its own review if the court review does not cover all the elements listed above.⁴⁸

Foster Care Review Committee

Before DHS places a child, a committee reviews the need for foster care and efforts made to prevent placement. The court ordered case permanency plan must be presented to a review committee every six months to assure the appropriateness of the child's placement. If the court reviews the case permanency plan within this six-month period, the regional administrator may waive the presentation of the plan to the review committee.

The DHS review committee includes the child's service worker, a supervisor, and one or more persons appointed by the regional administrator. The committee must have at least one person that is not responsible for case management or delivery of services to the child. The current foster care provider must be notified of the review and may participate.

⁴⁶ DHS Manual XIII – J – 29

⁴⁷ DHS Manual XIII – J – 24

⁴⁸ DHS Manual XIII – J – 31 (revised 12/11/01); IAC 441 - 202.6; 42 U.S.C. 475 (1),(5).

Others may attend the review, but rules and policy do not require they be notified. The review is open for participation by parents, the guardian ad litem, service providers, local school and area education agency staff.⁴⁹

Review committee recommendations are advisory only to the foster care worker and supervisor, who are responsible for development of the case permanency plan and for reports and recommendations to the court. The worker will consider which placement is in the best interests of the child and best meets any special needs. The placement is also to be in the least restrictive, most family-like facility that can still meet these needs.⁵⁰ The court will make the final decision as to type of placement and what services are to be provided to child.

Foster Care Review Board⁵¹

A local foster care review board may fulfill the plan review requirement.⁵² Iowa's Citizens' Foster Care Review Board is authorized to establish local foster care review boards and assist local boards in reviewing cases. Local foster care review boards composed of volunteers representing various disciplines conduct the reviews. Each volunteer receives training before sitting on a board.⁵³

Local review boards have not been set up in all Iowa counties. Polk County, the venue for Reggie Kelsey's case, does not have a foster care review board. As funds allow, the state board expects to continue to expand the area in which local boards are established.

Each board also has a paid facilitator who is responsible for ensuring the case review process is correctly followed. If for some reason the local board does not schedule a review within the time period set out in state and federal regulations, the county DHS office must schedule and hold a review.⁵⁴

Child-Placing Agencies

DHS also licenses and regulates child-placing agencies. DHS rules define a child-placing agency as:

An agency organized within the state of Iowa for the purpose of receiving minor children for placement, supervision, or both in private family homes for foster

⁴⁹ IAC 441 – 202.2 (5)

⁵⁰ IAC 441 – 202.4 (1)

⁵¹ Legislation in 2002 (SF 2325) changed the name of the Citizens' Foster Care Review Board to Child Advisory Board (CAB). This legislation also assigned to CAB the duty of certifying Court Appointed Special Advocates (CASA) and administering the CASA program. References in this section are to the agency organization and duties as they existed during Reggie Kelsey's stay in foster care prior to the 2002 legislation.

⁵² IAC 441 – 202.6(5)

⁵³ Iowa Code Sections 237.16-20

⁵⁴ DHS Manual XIII – J – 32

care; or for adoption; or for placement, supervision, or both of children who are 16 years of age and older living in approved independent living placements.⁵⁵

The DHS administrator promulgates rules, after their adoption by the Council on Human Services, related to foster care licensees.⁵⁶ The rules detail types of facilities, personnel requirements, program procedures and content, operational standards, and record keeping requirements.⁵⁷

For facilities providing independent living placements, the rules provide additional requirements for services that are to be provided. These include:

Ongoing assessment that identifies child's strengths and needs as these pertain to the child's ability to live independently.

The development of an individual service plan within 30 days of placement. The service plan shall be developed in consultation with the child and referring agent. The individual service plan shall include projection of the expected length of stay in supervised independent living and shall address the activities necessary to achieve independence and the services needed to be provided to the child. The individual service plan shall be updated quarterly.

At least weekly face-to-face contacts with the child for the first 60 days of placement and at least twice a month face-to-face contact thereafter. Frequency of visits shall be based on the needs of the individual child.

Personal observation by the agency worker that the living situation provides safe and suitable social, emotional, and physical care.

Maintenance of a means by which the youth can contact agency personnel 24 hours a day, seven days a week.⁵⁸

When an independent living setting is used, additional record keeping requirements are specified in DHS rules. The record maintained by the agency has to contain:

The name, date of birth, sex, and address of the child and information on how the child can be contacted.

Documentation of financial support sufficient to meet the child's housing, clothing, food, and miscellaneous expenses.

⁵⁵ IAC 441 – 108.1 (NOTE) - Iowa Code Section 238.2 defines child-placing agency as “Any agency, public, semi-public, or private, which represents itself as placing children permanently or temporarily in private family homes or as receiving children for such placement, or which actually engages, for gain or otherwise, in such placement, shall be deemed to operate a child-placement agency.”

⁵⁶ Iowa Code Section 237.3 (1)

⁵⁷ Iowa Code Section 237.3 (2)

⁵⁸ IAC 441 – 108.10 (3)

Name, address, and phone number of guardian, if applicable, and referring agent.

Medical records.

Educational and employment records.

All of the individual service plans and updated reviews.⁵⁹

Independent Living

A method of preparing a child to transition out of the foster care system is to place the child in an independent living setting. An independent living arrangement must provide a child with an environment in which the child can experience living in the community with minimum supervision.

The intent of independent living arrangements is to prepare the child for self-support and self-care. The child lives in an apartment, not a structured setting where many everyday services are provided. In independent living the child is expected to shop for food, prepare meals, clean the apartment, and do their own laundry.⁶⁰

After placement, the DHS worker will ensure through visits to the apartment that the living arrangement does not present an unacceptable risk to the child's health or safety. One of the required services is "supervision to assist the child in developing the needed structure to live in this setting." This includes weekly face-to-face meetings with the child for the first 60 days. The service provider contracted by DHS can provide the supervision and meet the weekly meeting requirement. The DHS worker still has to visit the child "regularly," at least quarterly (maximum 90 days) when the CPP goal is long-term foster care.⁶¹

Among the listed optional services DHS can provide to the child are "basic living skills services to enable or train the child to maintain a safe, healthy, and stable home. These include . . . role modeling in such skills as money management, credit . . . [and] consumer skills . . ."

Other services that may be provided include counseling services to reduce stress and severe social, emotional, or behavioral problems that affect the child's stability or ability to function independently, or to enhance the child's self-esteem and self-confidence. Counseling may be provided through individual or group therapy, counseling, and treatment.

Living Arrangements

There are two types of independent living arrangements – scattered site and cluster arrangements.

Scattered-site arrangements have no specific site or building that houses the program. Staff assist youth in locating apartments scattered throughout the community. A youth living in such

⁵⁹ IAC 441 – 108

⁶⁰ IAC 441 – 202.9

⁶¹ IAC 411 – 202.9 (2) (a) (2); 202.11 (2)

an arrangement must be able to contact supervising agency staff 24 hours a day, seven days a week. Up to three youths supervised by one agency may reside in apartments located in one building.

Cluster arrangements are those in which four to six youths reside in apartments located in one building and are supervised by one agency. When more than six youths reside in one building, it is considered to be a group care facility.

Cluster arrangements must have a resident adult employed by the agency. This person must have at least a high school diploma and two years paid work experience on-site. The adult present is to be available for support and guidance, but not as a supervisor in the sense of mandating rules or expectations.⁶²

DHS Manual informs workers:

A cluster arrangement provides additional support in a structured setting for youths who need more structure for the first few months of their placement. It enables youths to strengthen decision-making and social skills so that they can attain self-sufficiency. Cluster arrangements are especially suited for youths who have been in a highly structured residential program who are not quite ready for a scattered-site program.

Note: Youths can reside in a cluster arrangement no more than six months. Use a scattered-site arrangement after the youth's initial period in a cluster arrangement. A scattered-site arrangement is suited for those youths who have shown the ability to be responsible in previous placements, in school, and (if applicable) in a work situation. Because there is no time limit on placements, youths in a scattered-site arrangement do not have to move after six months.

Note: Whenever possible, select a scattered-site arrangement that provides the youth the option of staying in that apartment after leaving foster care.⁶³

Currently, Polk and adjacent counties offer only scattered site placements.

Eligibility Criteria

Several requirements must be met before a child is placed in an independent living arrangement. DHS rules provide:

a. To be eligible for independent living placement a child shall meet all of the following conditions:

(1) Be at least 16 years old. If age 18 or older, meets the definition of a child in Iowa Code section 234.1 and has been in foster care or state institutional placement immediately prior to reaching the age of 18, and has continued in foster care or a state institution since reaching the age of 18. A person aged 18 or over,

⁶² IAC 202.9(3); DHS Manual XIIX – F – 6

⁶³ DHS Manual XIIX – F – 7

who has received a high school diploma or a high school equivalency diploma, is not eligible for the independent living program.

(2) If under the age of 18, must either be working (or in work training) full-time or be attending high school or attending general equivalency diploma (GED) classes and working (or in work training) part-time. If aged 18 or older, be attending high school or GED classes full-time and making satisfactory progress toward completion of the high school or GED program and working (or in work training) part-time.

(3) Need foster care placement and services, based on an assessment completed according to rule 441—202.2(234) and subrule 202.6(5).

(4) Participate actively with the department caseworker in the development of the case plan and comply with its provisions.

(5) Refrain from involvement in any illegal behavior including using controlled substances or alcohol.

(6) Have capacity to function outside the structure of a foster family or group care setting. Prior to placement an assessment shall be made that reviews all available information on the child to identify the needs, strengths, and resources of the child, especially as they pertain to the child's ability to live independently.

(7) Have the potential to be financially and emotionally independent upon discharge from foster care.

(8) Have an approved living situation which shall meet the following minimum standards:

1. Be located so as to provide reasonably convenient access to schools, places of employment, or services required by the youth.

2. Comply with applicable state and local zoning, fire, sanitary and safety regulations.

3. Be reasonably priced so as to fit within the youth's budget.

(9) Have the approval of the area administrator of the area where the child resides.⁶⁴

Area Administrator's Approval

One of the eligibility criteria for independent living is the approval of the DHS area administrator.⁶⁵ The DHS Manual instructs the worker to prepare form 470-3186, *Approval for*

⁶⁴ IAC 441 – 202.9 (1)

⁶⁵ IAC 441 – 202.9 (9)

Independent Living Foster Care Placement, to get approval from the area administrator for the county where the youth is from.⁶⁶ The instructions on completing and filing the form state:

The Approval for Independent Living Foster Care Placement is used to obtain the human services area administrator's approval for a youth age 16 or older to be placed into an independent living foster care placement. This form is also used to obtain authorization for payment of start-up costs needed by the youth.

When Prepared

This form is prepared after a foster care staffing has determined that an independent living placement is the appropriate level of care for the youth.

By Whom Prepared

The youth's social worker or case manager prepares the form and submits it to the HSAA for signature.

Number of Copies

An original and one copy are prepared.

Specific Instructions

Complete all information above the asterisks [3/4^{ths} of the down, immediately above the space for the HSAA to indicate his/her decision, sign and date] and obtain the supervisor's signature. Then obtain the signature of the HSAA.

The HSAA approves or denies placement and indicates the amount of the start-up money approved.

Disposition

File the original in the case record. Forward the copy to the regional independent living specialist who covers the county where the child is from.⁶⁷

Preplacement Activities

In making a determination regarding the above eligibility criteria, DHS Manual instructs the worker to do the following preplacement activities:

Review all available information on the youth to identify the needs, strengths, and resources of the youth, especially as they pertain to the youth's ability to live independently.

Address the youth's level of maturity, ability to manage own affairs, and ability to adjust.

⁶⁶ DHS Manual XIIX – F – 7

⁶⁷ DHS Manual XIIX – J – Appendix 2g

Consult the independent living specialist to have an assessment made. The independent living specialist is also able to help in the following ways:

Identify possible candidates for placement.

Work with you to prepare youths for placement.

Make recommendations regarding placement to the area administrator for the county where the youth is from.

Determine that the living arrangement meets the minimum standards for approval before a lease is signed or a commitment is made to use the living arrangement.

Document this in the case record.

Skills Assessment

When preparing to determine whether a child is appropriate for independent living, an assessment needs to be made of the child's skills that directly relate to his potential for success in this living arrangement. There are no specific criteria for making this assessment contained in law, rule, or policy. Iowa Code does require an assessment be made of children placed in foster that are age 16 years or older, but the specific manner in which this assessment to be made is not detailed in any fashion and the time when the assessment should be made is not specified.

The DHS Manual does not require the worker to consult with the Transition Planning Specialist.⁶⁸ The worker may make the assessment themselves or utilize the assistance of the Transition Planning Specialist.

Daniel Memorial Institute Assessment for Life Skills

Two assessment instruments are commonly used as the standard assessment tool in many states. One, the Daniel Memorial Independent Living System (Daniel Memorial), is used as the primary assessment tool in 13 states, including Iowa.. The other, the Ansell-Casey Life Skills Assessment is the primary instrument used in five states. Both estimate a youth's readiness in defined areas such as self-care, money management and daily living tasks.⁶⁹

The DHS manual does not specify use of any particular assessment instrument or detail any specific manner for making an assessment of the child's skills. The Daniel Memorial assessment comes in a short and long form. The short form contains 90 multiple-choice questions and the long form has 231 questions covering various categories.⁷⁰

⁶⁸ Formerly, Independent Living Specialist

⁶⁹ *Independent Living for Foster Youth*, Christine Eilertson, National Conference of State Legislatures, February 2002.

⁷⁰ The assessment asks questions on these topics: Money Management, Food Management, Personal Appearance and Hygiene, Health, Housekeeping, Transportation, Educational Planning, Job Seeking Skills, Job Maintenance Skills, Emergency & Safety Skills, Knowledge of Community Resources, Interpersonal Skills, Legal Skills, and Housing.

Termination of Foster Care Services

The foster care services shall be terminated when the child is no longer an eligible child, or when the attainment of goals in the case plan has been achieved, or when the goals for whatever reasons cannot be achieved, or when it is evident that the family or individual is unable to benefit from the service or unwilling to accept further services. This rule is intended to implement Iowa Code section 234.6(6) “b.”⁷¹

The DHS Manual further details circumstances for generally terminating services.

After review, the termination of foster care services may be effected in the following circumstances:

- A. Attainment of goals in the case plan and/or realization that maximum benefits have been obtained.
- B. Child reaching majority age and not in an educational or vocational program.
- C. Foster care services no longer meet the child’s needs. This could be based on the child’s lack of cooperation and nonamenability to the foster care placement.
- D. Uncooperativeness of the natural parents of the child under voluntary placement.
- E. The natural parents or guardian withdraws the child from voluntary placement.
- F. The court removes the child from custody of the Department.
- G. In the case of adoption, foster care shall be terminated upon the adoption being finalized.
- H. Death of the child.⁷²

A case is not to be terminated unless the service worker and the worker’s immediate supervisor have reviewed the case and approved the termination.⁷³ In a CINA case, unless arrangements have been made for a child to voluntarily accept DHS services when he becomes an adult at age 18, DHS automatically loses legal custody and the court no longer may exercise jurisdiction beyond the child’s 18th birthday.

If a child remains in foster care until reaching age 18, and there is no prospect of returning home, the DHS worker has to provide assistance in planning for the child to get work, complete education, obtain housing, and other services

⁷¹ IAC 441 – 202.14

⁷² DHS Manual XIII – J – 92

⁷³ DHS Manual XIII – J - 92

necessary for self-sufficiency. The DHS worker is to make the transition as smooth as possible.⁷⁴

DHS Independent Living Manual provides that any of the following may be cause for termination of the child from the independent living program:

The youth aged 18 or 19 no longer is in school in one of the following programs:

In full-time attendance at an accredited school pursuing a course of study, leading to a high school diploma.

High school equivalency (GED).

Special education, as defined and provided by the Department of Education through the Area Education Agencies and the local public school districts.

The youth is 18 or over and working full time.

The youth has another resource available to meet the youth's identified needs.

The youth fails to make satisfactory progress towards completion of the high school GED program, after having been given the opportunity to correct the behavior.

The youth no longer meets the work (or work training) requirement.

The youth no longer needs foster care placement and services.

The youth needs a more restrictive level of placement.

The youth chooses to live in a nonapproved setting.

The youth refuses to participate actively in the development or review of the case plan or to follow its provisions.

The youth commits an aggravated misdemeanor or felony.

The youth is involved in illegal behavior or substance abuse on a second occasion, after having been given the opportunity to correct the behavior.

It is up to the youth to stay clear of any situation that might lead someone to believe that there was involvement in illegal activities including alcohol or substance abuse. When you have reason to believe that the youth has used a controlled substance or alcohol, confront the youth. Make it clear that if this happens a second time, the youth will be terminated from the program. Put this into writing and give a copy to the youth.

⁷⁴ DHS Manual XIII – J - 93

If this is a court-ordered placement, report the incident and make a recommendation to the court. The court makes the decision as to whether the independent living program is no longer appropriate due to substance or alcohol use as presented by the evidence.

Hearsay is generally allowed in the worker's reports which are filed with the court and through testimony.⁷⁵

Voluntary Foster Care After Age Eighteen

An option available when a child has reached the age of majority but still needs foster care services is voluntary placement. The foster care recipient can sign a voluntary placement agreement and DHS will be responsible for payment of foster care services. These agreements are for a period of six months and can be renewed, as long as the recipient remains otherwise eligible, through age 20.⁷⁶

Voluntary placement agreements between the Department and the client can be used when the jurisdiction of the juvenile court has expired because the child has reached majority. To be eligible for continued, voluntary placement the 18-year-old "child" must be enrolled full-time in high school, have been in foster care immediately before reaching 18, and has continued in foster care since reaching 18.⁷⁷ If the child has left foster care for even a day after turning 18 they are not eligible for voluntary placement.

⁷⁵ DHS Manual XIIX – F – 18

⁷⁶ IAC 441 – 202.3(3)

⁷⁷ Iowa Code Section 234.1; IAC 441 – 202.3 (3); DHS Manual XIII – J – 5

TRANSITION PLANNING

Transition planning is the process of assisting youth in foster care to prepare to be self-sufficient adults. Transition planning assists youth, case managers, and caretakers in learning more about the specific skills that the youth needs to be better prepared for adult life.⁷⁸

Role of DHS

The above quote from DHS Manual XIII-J, Foster Care Services, is from the December 11, 2001 revision of this chapter of the manual. The section is entitled Transition Planning and contains a policy statement, a comment on the policy, and two paragraphs to describe the procedure. Prior to this revision, and in place during Reggie Kelsey's placement in foster care, this section of the DHS Manual was entitled Preparation for Independence.⁷⁹ For the remainder of this report section references to the DHS Manual will be to version in place prior to December 2001.

Law/Rules/Policy

DHS policy instructs the worker that:

All children age 16 and above shall be provided a written transitional independent living plan which is based on an assessment of the child's needs and is incorporated into the child's case permanency plan.⁸⁰

The DHS Manual does not set out in a specific subsection the procedures the worker is to follow. The "Comment" section refers to "completion of an independent living skills assessment" which is to be included in the case permanency plan in summarized form.⁸¹ This summary is to be included in Part C of the plan, in the "Problem and Responsibility List" area, as follows:

1. Identify the client's independent living skills needs in the Problem List, Part C1.
2. Identify the responsibilities for the client, Department workers, and other persons and agencies responsible for meeting the independent living skills development plan in the Responsibilities List, Part C2.
3. Include the independent living skills plan components in a case permanency plan developed within 30 days before the child's sixteenth birthday or the first case plan developed following the child's sixteenth birthday.

⁷⁸ DHS Manual XIII – J – 26 (Revised December 11, 2001)

⁷⁹ NOTE: This section of the DHS Manual was revised again October 1, 2002. This revision will be discussed further in this report under the heading "Recent Developments."

⁸⁰ DHS Manual XIII – J – 26

⁸¹ DHS Manual XIII – J - 26

4. If the child is interested in pursuing higher education, provide in the plan for the child's participation in the College Student Aid Commission's program of assistance in applying for federal and state aid.⁸²

The DHS Manual does not include procedures for referring the foster child to any governmental agency or service beyond their placement in foster care. The DHS Manual also does not refer to relating "independent living skills needs" to potential adult services to accommodate these needs.

Adult Services

The availability of governmental services to adults is a complex system comprised of state and federal regulations and effectively based on funding sources established for each service. The services available will be determined on whether a person has established settlement (residency for funding purposes) in the state or particular county, and if the person has qualified under a specific mental diagnosis.

The state will pay for adult services for persons diagnosed with mental illness (MI), mental retardation (MR), or developmental disabilities (DD), and who do not have legal settlement in Iowa.⁸³ The state payment program ensures that services otherwise provided under county management programs are available for persons that do not have legal settlement.⁸⁴

In these cases the DHS case manager [adult service worker] may determine eligibility for services, initiates the payment program application, and carry out services to the client.⁸⁵ Whenever legal settlement for the client has been established, eligibility for the state payment program ceases and the responsibility for providing services may transfer to the county of settlement.⁸⁶

A county becomes eligible for state payment when a management plan for provision of mental health, mental retardation, and developmental disability services is approved by the director of DHS. The plan describes the county's development and implementation of a managed system of cost-effective individualized services. The goal is to assist the individuals served to be as independent, productive, and integrated into the community as possible.⁸⁷

Polk County DHS Adult and Family Services Unit

There are no specific guidelines in rule or policy for when a foster care worker should make a referral of a foster child to the DHS Adult Services Unit for services.

⁸² DHS Manual XIII – J – 26

⁸³ Iowa Code Chapter 234

⁸⁴ DHS Manual XVII – C - 1

⁸⁵ DHS Manual XVII – C – 1

⁸⁶ DHS Manual XVII – C – 34

⁸⁷ Iowa Code Section 331.439 (1) (b)

When a case is presented to the DHS adult service unit the worker has a two-fold responsibility. First is to determine the referral's legal settlement. Second, the worker determines eligibility for services by establishing whether the referral has a recognized diagnosis of an acceptable mental health condition.

Persons with mental illness are those who meet the criteria for a diagnosis of mental illness defined in the Diagnostic and Statistical Manual, Fourth Edition – Revised (DSM IV) published by the American Psychiatric Association.⁸⁸ Mental retardation

Mental retardation means a person meets the following three criteria:

- Significantly subaverage intellectual functioning – measured with an IQ of 70 or below with a error of plus or minus 5 points.
- The person does not meet the standards expected of a person their age for adaptive functioning in at least two of the following areas:
 - Communication
 - Self care
 - Home living
 - Social and interpersonal skills
 - Use of community resources
 - Self direction
 - Functional academic skills
 - Work
 - Leisure
 - Health
 - Safety
- Onset before age 18.⁸⁹

DHS adult services unit workers can either manage the case themselves or arrange for case management through a contract provider. In these cases the adult unit will refer the client to various potential case management entities and the client then selects which provider they wish to use.

An Application for All Social Services must be completed as well as a Central Point of Coordination application. The Central Point of Coordination application is a general intake form that may be completed before a referral reaches the age of 18. The form assists in the determining the threshold eligibility criteria of legal settlement and provides information for determination of services. The Application for All Social Services cannot be submitted until a

⁸⁸ DHS Manual XVII – C – 7

⁸⁹ DHS Manual XVII – C – 8

person is an adult and more specifically addresses the particular services an individual may be eligible for.⁹⁰

Polk County Health Services, Inc.

The county may either directly implement a system of service management and contract with service providers, or create a private entity to manage the system. The county becomes eligible for state funding when a mental health system plan is submitted and period reports meet standards established in Iowa law.⁹¹ The mental health system must incorporate a single entry point and clinical assessment process.⁹²

Polk County has developed and received approval for its Management Plan under Iowa Code Section 331.439. Polk County Health Services, Inc. (PCHS) serves as the Central Point of Coordination (CPC) and the management plan includes 11 access points with the authority to take applications and determine eligibility for services (including DHS Service Management).

PCHS has developed its own contracting capacity to replace the state's purchase-of-service system. PCHS requires service providers meet all state licensure, accreditation or certification standards. Persons are eligible for county-funded services if they meet financial criteria and satisfy threshold criteria for any of the following:

- Persons in need of mental health services.
- Persons with chronic mental illness.
- Persons with mental retardation.
- Persons with developmental disabilities
- Persons with a brain injury.

Polk County's Management Plan includes a Three-Year Strategic Plan (FY2001 – FY 2003) that contains a detailed matrix of the service providers available for a variety of potential client needs. PCHS does not provide services directly. In contracts with a variety of agencies (Polk County Provider Network), most of which are non-profit organizations, to provide the services approved in the county's annual plan and budget.

Although determination of legal settlement is required for state payment, PCHS will not withhold services while this issue is being resolved.

Polk County Transition Committee

To assist children transitioning from the child welfare system (foster care) to adult services, PCHS and DHS created a transitioning committee in 1999. Currently there is no requirement in

⁹⁰ DHS Manual XVII - Appendix

⁹¹ Iowa Code Section 331.439

⁹² Iowa Code Section 331.439 (1) (b) (3) (c)

law, rule, or policy that a DHS worker access this resource when preparing a foster child for transition out of the foster care system. According to Lynn Ferrell, Director of Polk County Health Services, Inc., the purpose of the committee is to ensure adult services will be in place immediately upon the minor's departure from foster care when they reach the age of majority.⁹³

Susan Osby, PCHS Program Planner, also described the creation of the transition committee:

This transitioning committee was set up almost three years ago based on concern that we had individuals that were either graduating from high school in June or were turning 18 that we were receiving calls in our office, the day before, the week before when a person was going to be transitioning. So, we felt that we needed to call together all those players and work on a process to be able to help with being able to identify the children that were going to be leaving foster care or also who were turning 18 that would be entering into the adult system. So, we came together with a group of individuals – Polk County Health Services is a member of that committee, and Department of Human Services Foster Care Unit, supervisor and adult services supervisor there and also a regional person that does a lot of help with transitioning situations.⁹⁴

Memoranda related to the committee's membership, intended purpose, and schedule of meetings has been distributed to Polk County DHS workers.

Lynn Ferrell, Directory of Polk County Mental Health Services described how the committee functions.

The intent of the process, is that at least 2 years in advance, individuals will come to this group and ask for advice on what needs to be done for the child to transition successfully into the adult system. The worker would come to the meeting, with the case file, and present to the team of individuals there. There are two individuals from DHS, and a representative from PCHS, plus the caseworker at the meeting, and any other individuals that the caseworker may invite. An overview is presented on each child's age, diagnosis, current placement, family situation, etc. Some of the cases are very general in nature and don't take a long period of time to discuss, but most of them are difficult situations where a lot of discussion and brainstorming needs to occur. The committee identifies tasks which the caseworker needs to follow-up on and the worker reports progress to the committee at subsequent meetings. A log is kept by DHS with the information on each individual discussed, and a list of follow-up items is documented. If an individual needs to be followed-up on, the case is placed on a schedule for two to three months later.⁹⁵

⁹³ PCHS Executive Director Lynn Ferrell letter to CAO Director William Angrick dated August 17, 2001.

⁹⁴ Osby Interview Transcript, p. 18 – 19.

⁹⁵ Letter from Ferrell to CAO, p. 1, August 17, 2001

Guardianship

Iowa Code sections 633.551 through 633.682 detail the process to establish guardianship of a ward, powers and responsibilities of a guardian, and method of terminating a guardianship. Any person can file the petition. The petitioner then has the burden of proving by clear and convincing evidence the proposed ward is incompetent.⁹⁶ Iowa Code Section 633.3 states *incompetent* means:

The condition of any person who has been adjudicated by a court to meet at least one of the following conditions:

- a. To have a decision-making capacity which is so impaired that the person is unable to care for the person's personal safety or to attend to or provide for necessities for the person such as food, shelter, clothing, or medical care, without which physical injury or illness may occur.
- b. To have a decision-making capacity which is so impaired that the person is unable to make, communicate, or carry out important decisions concerning the person's financial affairs.
- c. To have a decision-making capacity which is so impaired that both paragraphs "a" and "b" are applicable to the person.

A petition for the appointment of a guardian must state that the proposed ward is either a minor or "is a person whose decision-making capacity is so impaired that the person is unable to care for the person's personal safety or to attend to or provide for necessities for the person such as food, shelter, clothing, or medical care, without which physical injury or illness might occur."⁹⁷ The court may find that the functional limits of the proposed ward require only a limited guardianship.

A finding that a ward is incompetent is not a determination that the ward is of unsound mind. In fact, a guardian may also be appointed by the court upon the verified voluntary petition of the proposed ward, without further notice, if the proposed ward is other than a minor under the age of fourteen years, provided the court determines that such an appointment will inure to the best interest of the applicant.⁹⁸

When the court appoints the guardian the ward is informed that the guardian may, without court approval:

- provide for the care of the ward
- manage the ward's personal property and effects

⁹⁶ Iowa Code Section 633.551 (1)

⁹⁷ Iowa Code Section 633.552 (2) (a)

⁹⁸ Iowa Code Section 633.557 (1)

- assist the ward in developing self-reliance and receiving professional care, counseling, treatment or services as needed
- and ensure that the ward receives necessary emergency medical services.

With court approval the guardian may also:

- change the ward's permanent residence to a more restrictive residence
- arrange for major elective surgery
- or, any other non-emergency major medical procedure.⁹⁹

If the ward petitions to terminate the guardianship the ward must make a prima facie showing of some decision making capacity. The burden of persuasion then is on the guardian to show by clear and convincing evidence the ward is still incompetent.¹⁰⁰

The court monitors the guardianship through required annual reports submitted by the guardian.

The DHS Manual references guardianship as a placement option but is not referenced as a consideration in transition planning.¹⁰¹ The DHS Manual states placement with a legal guardian “may be appropriate if the child is unlikely to return home in the foreseeable future and adoption is not possible.” The DHS Manual further clarifies these placements are not foster care.¹⁰²

DHS rules provide for a subsidized guardianship program “to provide financial assistance to guardians of eligible children who are not able to be adopted and who are not able to return home. This program will allow children a more permanent placement than they have in foster care.”¹⁰³

However, pursuant to 2000 Iowa Acts, Senate File 2435, section 40, implementation of Chapter 204 is delayed until such time as funding is appropriated by the General Assembly.

Role of Area Education Agencies and Local School Districts

Iowa statute establishing area education agencies (AEA) states the following:

It is the intent of the general assembly to provide an effective, efficient, and economical means of identifying and serving children from under five years of age through grade twelve who require special education and any other children requiring special education as defined in section 256B.2; to provide for media

⁹⁹ Iowa Code Sections 633.562 and 633.635

¹⁰⁰ Iowa Code Sections 633.551 (2) and 633.675

¹⁰¹ DHS Manual XIII – J - 43

¹⁰² DHS Manual XIII – J - 43

¹⁰³ IAC 441 – 204

services and other programs and services for pupils in grades kindergarten through twelve and children requiring special education as defined in section 256B.2; to provide a method of financing the programs and services; and to avoid a duplication of programs and services provided by any other school corporation in the state; and to provide services to school districts under a contract with those school districts.¹⁰⁴

Heartland AEA 11 (Heartland) serves the Des Moines/Polk County area. Heartland maintains a satellite office at the administrative offices of the Des Moines School District. In some areas of the state the AEA provides direct services to the school district - generally when the district is too small to maintain adequate trained staff to provide special education services. The Des Moines School District provides direct services and is the official repository of school records on special education children..¹⁰⁵

Heartland has compiled a Transition Technical Manual entitled *Navigating the Transition Maze*. The manual provides “guidelines and procedures to use in transition planning for all students with special needs.” The introduction to the manual also notes:

The transition from school to the adult world is usually a stressful time for any student. For a young adult with special needs, it is often filled with anxiety. Students and their families find themselves leaving education where the necessary services and supports are usually provided by a single system (the Public School System). They then move into the adult service world where there are many different systems with varying eligibility requirements.

The technical manual indicates the components of the Individual Education Plan (IEP) complies with federal regulations.¹⁰⁶ These regulations require that each child's IEP contain the student's present level of education performance (PLEP), annual goals, instructional objectives or benchmarks, and how the child's progress toward annual goals will be measured. Information on the goal page can be used as one piece of information for assessing the effectiveness of efforts to educate children with disabilities.

The manual states the following with regards to time frames for addressing transition planning:

Incorporation of transition planning into the IEP process by age 14 includes identification of long range plans and goals for a student addressed through the student and family long range expectations statement. Additionally, planning for the student's post-school goals is addressed by defining a course of study.

In addition to the development of long range expectations and a course of study, by the time a student reaches the age of 16 a statement of needed transition services must be included in the student's IEP. Transition services must address instruction, related services, community experiences, and other strategies

¹⁰⁴ Iowa Code Section 273.1

¹⁰⁵ Letter from James Stumme, Ed. Director, Heartland AEA dated August 6, 2001.

¹⁰⁶ IDEA Federal Regulations, Title 34 CFR, Sections 300.342 through 300.347 and 41.67 (1) and 41.67 (2) Iowa Rules of Special Education; IDEA Sec. 614 (d) (1) (a) (ii), and IDEA Sec. 614 (d) (1) (a) (viii).

including linkages to adult service providers who are directly related to both employment and post school adult living. When appropriate, the acquisition of daily living skills and a functional vocational evaluation must be addressed.

Included in the IEP is a “goals page”. This page addresses transition services defined as a coordinated set of activities, designed within an outcome-oriented process, that promote movement from school to post school environments. This page is required for IEP development prior to a student’s 16th birthday.

RESEARCH STUDIES AND STATISTICS

Each year nationwide, approximately 24,000 foster children emancipate from the system or run away from state custody. This represents about 4 percent of over 581,000 children receiving foster care annually. Studies conducted in 1992 (Westat) and 1995 (Wisconsin) document discouraging circumstances of former foster youth after leaving care.¹⁰⁷

Both studies indicated these youth are at high risk of experiencing unemployment, poor educational outcomes, poor health, long-term dependency on public assistance, and increased rates of incarceration than their peers in the general population. Several studies document that anywhere from 10 to 25 percent of former foster youth are homeless for at least one night after they leave foster care.¹⁰⁸

Preparation for adult living is an important component of foster care services, especially for those expected to “age out” of the system. Christine Eilertson writes, “Participation in independent living services is considered critical because the outcome statistics for emancipating foster youth historically have been bleak.”¹⁰⁹ Despite this,

... there are states which don’t even access all the money earmarked for the services.

The emancipated youth remain a very troubled population. When the U.S. Department of Health and Human Services (HHS) contracted with Westat, Inc. in 1989 to carry out studies of the program’s effectiveness, the report found that of the 34,600 youth departing foster care during the study period, only 31 percent received services from their state’s Independent Living Program.

A more recent portrait of children about to leave care is more encouraging. Mark Courtney and other researchers at the University of Wisconsin-Madison conducted interviews in 1995 with a cohort of youth exiting out-of-home care in Wisconsin. Over 85 percent of the respondents stated that they had been educated about personal health care, and trained job seeking and decision-making skills. However, 39 percent said their training came mostly from foster parents; only 32 percent credited specialized independent living training programs.¹¹⁰

Wisconsin’s four-year study produced some disturbing statistics regarding former foster youth.

The study examined 157 youth in Wisconsin who had aged out of foster care after more than 18 months in out-of-home placement. With a 90 percent response rate, the study’s data showed that upon leaving care at age 17 or 18, fewer than half the

¹⁰⁷ *Independent Living for Foster Youth*, Christine Eilertson, National Conference of State Legislatures, February 2002, p. vii.

¹⁰⁸ *Ibid.*

¹⁰⁹ *Ibid.* at 4.

¹¹⁰ *Unholy Freedom: Background on Adolescents and Foster Care*, Susan Kellem.- Connect for Kids. February 1999.

youth had finished high school, 32 percent read below an eighth grade level, 43 percent were unemployed, and 30 percent reported being involved in mild delinquent behavior. The study also reported on these youth 12 to 18 months after they left foster care. This follow-up report found that the youth had trouble gaining access to health care, and only half of those who had received mental health services while in foster care had used mental health services since emancipation. It found that only 37 percent of the youth had finished high school, 39 percent were unemployed, 32 percent of the youth were receiving public assistance, and 19 percent of the youth had been incarcerated at some point since their emancipation.¹¹¹

In 1976, Congress appropriated money for an Independent Living program for foster care youth. In 1986, twenty-two states had policies to address the needs of emancipating foster youth. By 1990, all 50 states and the District of Columbia had independent living plans. In 1999, the Department of Health and Human Services (DHHS) and the General Accounting Office (GAO) submitted reports to Congress documenting the progress in state programs in this area of foster care.

The reports suggested that many of the services offered either were not reaching eligible youth or were not practical and comprehensive enough to show improved outcomes for youth. The GAO [U.S. General Accounting Office] report also suggested that no data collection mechanism was in place to accurately assess how states are performing.

In response to these reports and congressional hearings in 1999, Congress passed the Foster Care Independence Act, which replaced the existing independent living program with the John H. Chafee Foster Care Independence Program.¹¹²

The GAO report to Congress in 1999 also detailed the following strengths and negatives of most independent living programs.

Strength	Negative
Programs were set up to connect foster youth with potential post-secondary educational opportunities. This included tutoring, help with financial aid applications, and college tours.	Programs were not well-equipped to connect youth to appropriate employment or other vocational opportunities. States cited lack of apprenticeship programs, expense of vocations programs, and underdeveloped relationships with the employer community.
Most programs provided instruction on a wide array of daily living activities, ranging from health and hygiene to money	Many programs lacked the ability to provide youth with an opportunity to actually practice and experience these skills

¹¹¹ Eilertson at 4.

¹¹² *Ibid.* at 2.

management and transportation.	Transitional living arrangements where youth can actually practice life skills with access to adult support and counsel were limited.
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The DHHS report also advocated better collaboration with other agencies and the private sector, involving youth in the planning and implementation of independent living programs, and using pilot projects to test approaches and disseminate results.

Establishing programs to address the transition needs of all foster care children is made more difficult because of the various setting in which emancipating youth find themselves at the age of majority. More youth emancipate from foster care out of a foster home than from other settings. Many of these youth maintain relationships with their former foster families. In the 1998 follow-up study of Wisconsin former foster youth, one-third of the study's sample resided with extended family when they left care. However, youth coming from group homes and other non-family settings generally have not established an on-going, long-term relationship with any adult.¹¹³

Independent living arrangements while in foster care can provide a youth a valuable opportunity to experience adult life while still maintaining some safeguards. In independent living the youth has to become accountable for their everyday choices. This is a risky proposition for many but as Eilertson states, "Many youth may have to experience being evicted, getting fired, or losing a subsidy before they realize the importance of committing to their independent living responsibilities."¹¹⁴

Iowa Statistics

Iowa has never conducted a longitudinal study of what happens to foster youth when they leave the system. Minimal statistics are accessible but do not sufficiently address the varied circumstances of previous placement, services provided, and outcomes for youth leaving foster care.

The Ombudsman requested available statistics regarding foster youths aged 16 to 18 from the Department of Human Services. Jeff Terrell, Chief of DHS' Bureau of Performance Management, provided the following information:

Total number of children receiving Foster Care Services during the state fiscal year (SFY)

	SFY 1999	SFY 2000	SFY 2001
State	8,180	8,441	8,789
Polk County.	1,424	1,405	1,536

¹¹³ *Ibid.* at 7.

¹¹⁴ *Ibid.* at 14.

Number of children between ages 16 and 18 receiving Foster Care Services as of October 1.

	SFY 1999	SFY 2000	SFY 2001
State	1,218	1,256	1,267
Polk County	211	221	223

Number receiving Foster Care Services at the time they turned age 17.5

	SFY 1999	SFY 2000	SFY 2001
State	457	579	633
Polk County	48	68	74

Number of children receiving any Foster Care Services [shelter care, family foster care, independent living, and group care] at the time of their 18th birthday

	SFY 1999	SFY 2000	SFY 2001
State	192	195	199
Polk County	17	19	25

Number of children who began receiving Independent Living Services prior to turning 18

	SFY 1999	SFY 2000	SFY 2001
State	157	154	184
Polk County	32	30	45

Number of children receiving Independent Living Services at the time they turned age 17.5

	SFY 1999	SFY 2000	SFY 2001
State	79	100	105
Polk County	12	17	20

Number of children receiving Independent Living Services at the time of their 18th birthday

	SFY 1999	SFY 2000	SFY 2001
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State	56	61	71
Polk County	8	8	13

Observations Regarding Youth “Aging Out” of Foster Care

The primary goal of the child welfare system is to protect the safety of children who have been harmed by their caregivers.¹¹⁵ The threshold duty for human service workers when given custody of a child, often through court order in a CINA action, is to make reasonable efforts to reunite the family and return the child home. If this is not possible then other placements are explored – with other family members, adoption, foster family homes, and, least desirable, long-term foster group home placement.

The reality is a great number of youth placed in foster care remain in the custody of the state for a significant part of their lives. In 1999, of 581,000 foster children, 183,000 had been in the system for three or more years. Although many youth feel “lucky” to have been placed in out-of-home care, many of them have grown up without consistent relationships and family models, peer groups, education, and community standards.¹¹⁶ The fact is most of these youth have experienced numerous moves through placement between foster homes, relatives, and various group home placements. These youth miss out on many of the critical societal influences that help children socialize into adulthood.

When a foster youth “ages out” of the system at age 18 they are generally treated in the same manner as all youth at age 18. But unlike other youth, foster children reach adulthood without the support system afforded most non-foster youth. They don’t have a bed at their parents’ home, they don’t generally have an expectation of or opportunity for post-secondary education, and they may no idea where the next meal is coming from.

Susan Kellem in an article entitled *Unholy Freedom: Background on Adolescents and Foster Care*, describes the circumstance this way:

Imagine being emancipated at the age of majority – no more curfews, chores or tedious rules. At the same time – no more free meals, guidance or someone to pay the bills in a pinch.

That’s what happens annually to an estimated 13,000 to 20,000 youth across the nation who “age out” of the child welfare system. “One of the hardest things that we face in our society is the situation of foster kids becoming totally and completely independent at age 18 or 19. They can’t lose a job. They can’t drop out of college. Or they can end up homeless because they have no assets. They have no bedroom in their parents’ home.”

¹¹⁵ *Ibid.* at 1.

¹¹⁶ *Ibid.*

The United Nations General Assembly defines “youth” as extending through age 24. In the United States legal system, under most circumstances and with little to support the “arbitrary determination of adulthood” at age 18, a youth is granted their “unholy freedom” the day of their 18th birthday.¹¹⁷

The development and expansion of state independent living programs over the past 25 years, and the new resources and emphasis created in the Chafee Act, has changed the direction many states programs are taking in preparing youth for life as an adult.

Early on, programs focused primarily on teaching 17- and 18-year-old youth a small set of independent living skills, encouraging them to complete a high school level education, and helping them develop job search skills.

Current independent living programs are much more comprehensive and diversified. In addition to the above core elements, independent living services today also include access to medical services, assistance in pursuing post-secondary educational opportunities, “soft skills” development such as self-presentation and anger management, counseling, mentoring, access to substance abuse treatment and practice living opportunities.¹¹⁸

Iowa is allocating a significant portion of its new funds to enhance training not only of foster parents, but of all adults involved in direct care giving within the child welfare system.¹¹⁹

Most states, including Iowa, allow youth to voluntarily remain in care until age 19 if they are in the process of completing an education or treatment program.

For youth in states with voluntary extensions of jurisdiction, those who have left care and are within certain age requirements can sometimes return to full foster care. Iowa does not allow a former foster care youth to return to full foster care services if they have been independent for even one day.

The Chafee Act expects all state programs to develop an “open door policy” that allows youth access to aftercare services over several years as they need them until they reach age 21, regardless of how or when they left foster care. This flexibility in programming services has been well received in the foster care community because it addresses the volatility in the level of need that youth experience during the first years on their own as they move, secure and lose jobs, and learn to manage expenses.¹²⁰

¹¹⁷ Kellem at 1.

¹¹⁸ Eilertson at 12.

¹¹⁹ *Ibid.* at 13.

¹²⁰ *Ibid.*

RECENT DEVELOPMENTS

Change in Iowa Law

Following enactment of House File 2399 in the 2002 legislative session, DHS foster care workers are now required to collaborate with potential adult service providers when writing plans of service for youth age 16 years or older. The underlined sections in the text below are the additions to the existing code. The three effected subsections are entitled 232.2 *Definitions* (defining Case Permanency Plan), 232.52 *Disposition of child found to have committed a delinquent act*, and 232.102 *Transfer of legal custody of child and placement* (in CINA cases).

Section 1. Section 232.2, subsection 4, paragraph f, Code Supplement 2001, is amended to read as follows:

f. When a child is sixteen years of age or older, a written plan of services which, based upon an assessment of the child's needs, would assist the child in preparing for the transition from foster care to independent living. The written plan of services and needs assessment shall be developed with any person who may reasonably be expected to be a service provider for the child when the child becomes an adult or to become responsible for the costs of services at that time, including but not limited to the administrator of county general relief under chapter 251 or 252 or of the single entry point process implemented under section 331.440.

If the child is interested in pursuing higher education, the plan shall provide for the child's participation in the college student aid commission's program of assistance in applying for federal and state aid under section 261.2.

Sec. 2. Section 232.52, subsection 6, unnumbered paragraph 2, Code Supplement 2001, is amended to read as follows:

When the court orders the transfer of legal custody of a child pursuant to subsection 2, paragraph "d", and the child is sixteen years of age or older, the order shall specify the services needed to assist the child in preparing for the transition from foster care to independent living. If the child has a case permanency plan, the court shall consider the written plan of services and needs assessment developed for the child's case permanency plan. If the child does not have a case permanency plan containing the written plan and needs assessment at the time the transfer order is entered, in determining the services to be specified in the order, the court shall consider a written plan for such services and a needs assessment which shall be developed with any person who may reasonably be expected to be a service provider for the child or to become responsible for the costs of services at that time, including but not limited to the administrator of county general relief under chapter 251 or 252 or of the single entry point process implemented under section 331.440.

If the child is interested in pursuing higher education, the plan shall provide for the child's participation in the college student aid commission's program of assistance in applying for federal and state aid under section 261.2.

Sec. 3. Section 232.102, subsection 1, unnumbered paragraph 2, Code Supplement 2001, is amended to read as follows:

If the child is sixteen years of age or older, the order shall specify the services needed to assist the child in preparing for the transition from foster care to independent living. If the child has a case permanency plan, the court shall consider the written plan of services and needs assessment developed for the child's case permanency plan. If the child does not have a case permanency plan containing the written plan and needs assessment at the time the order is entered, in determining the services to be specified in the order, the court shall consider a written plan for such services and a needs assessment which shall be developed with any person who may reasonably be expected to be a service provider for the child or to become responsible for the costs of services at that time, including but not limited to the administrator of county general relief under chapter 251 or 252 or of the single entry point process implemented under section 331.440.

To comport with these statutory changes, on October 1, 2002, DHS published manual revisions to chapters 18A – Child Welfare General Requirements and 13J – Foster Care Services. The language added to these two chapters is practically identical. The amendments are in subsections entitled “Transition Planning” and Chapter 18A now states:

For youth who will require services as an adult, you must develop the needs assessment and written plan of services with someone who may reasonably be expected to be a service provider when the youth becomes an adult or to become responsible for the cost of services at that time.¹²¹

The Ombudsman notes the updated DHS Manual reflects nearly identical language to that contained in House File 2399. However, the DHS Manual includes the phrase, “For those youth who *will require services as an adult.*” [Emphasis added.] This phrase infers that the DHS worker first makes a determination that a child “will” need adult services before consulting with potential adult services providers in developing the case permanency plan. In other words, unless the worker makes a determination a youth *will* require services, collaboration with the adult services providers is not required.

The Ombudsman notes there is no such limiting language in the revised statute. The Ombudsman believes it is reasonable to read House File 2399 as requiring collaboration with services providers in developing the written plan for all youth age 16 or older who “may reasonably be expected” to need services after age 18, not just those who “will” definitively need the services.

¹²¹ DHS Manual XIIX – A -93 (Revised October 22, 2002). The new language in Chapter XIII - J is “For those youth who will require services as an adult, the needs assessment and written plan of services must be developed with someone who may reasonably be expected to be a service provider when the youth becomes an adult or to become responsible for the cost of services at that time.” DHS Manual XIII – J – 26.

Foster Care Independence Act of 1999 and the John H. Chafee Independent Living Program

In December 1999, Congress replaced the Independent Living Initiative of 1986 (P.L. 99.272) with the Foster Care Independence Act of 1999 (P.L.106-169). The focal section of this change in the Social Security Act legislation was section 477, the John H. Chafee Foster Care Independence Program (Chafee Act).¹²²

The Chafee Act increases federal funding for state independent living services and provides that all former foster care recipients between the ages of 18 and 21 may be provided services depending on the state's eligibility criteria.

States have a great deal of flexibility in deciding how to use the funds but the Act references assistance in obtaining high school diplomas, vocational training and job placement, substance abuse prevention, and emotional support of youth through the use of mentors and contacts with other concerned adults. The Act requires the states to develop a means of measuring the effectiveness of the program and track progress of the recipients of the services provided.

The first funds made available to the states in early 2000 allowed states to use up to 30 percent for room and board for youths age 18 to 21 who have left the foster care system. The states were required to seek significant input from the public and private sectors in developing a five-year plan for accomplishing the objectives of the Chafee Act.

After submitting a five-year plan meeting the criteria set by the Act and certifying to the federal government the money would be spent according to the Act's guidelines, states can apply for the additional funding for five consecutive years.

Iowa's Transition Planning Work Group

Iowa DHS put together a stakeholder work group, the Transition Planning Work Group. This group, led by Holli Noble, DHS Transition Planning/Independent Living Program Manager, met five times between June 2000 and April 2001. DHS also conducted youth surveys and held a public comment period from May 15, 2001 through June 15, 2001

The participants in the work group shared the resources their agency provided and developed a list of supports, resources, and services within the community available to youth in their transition to self-sufficiency. The group also compiled a list of perceived gaps in the system. These included:

- Emergency Housing for 18-21 yr. olds/Connect youth with non-agency youth
- Licensing Issues
- Services for Young Mothers
- Knowledge about Kinship Care

¹²² NOTE – the late Senator John H. Chafee of Rhode Island was one of the original sponsors of the Act and a long time champion for children who have been abused and neglected.

- Youth Voice/Youth Involvement
- Legal Services
- Volunteer Family/Community, Natural, Stable Support Systems
- Educational/Job Resources
- Transportation

The group meeting in August presented the question to the participants, “How do we begin to collaborate/partner to assist youth in their transition to self-sufficiency?” the answers included:

- Need to be knowledgeable of services in local community.
- Need to coordinate policy/funding & state/local.
- Coordinating youth/adult system as youth transition
- Involvement of CPCs/Adult probation/Parole/Mental Health system
- Marketing/Education about need for changes
- Allow youth to fail/learn by mistakes
- Make services available after 18
- Local Collaboration/Flexible Systems
- Involve schools/Education Dept/DHS – MR/DD Division

In further monthly meetings additional topics were discussed relative to the needs of children transitioning out of foster care. At the August 28, 2000 meeting, two sub-committees were formed – Aftercare (including medical) and Community Collaboration (including Vocational/Educational Planning).

As additional input to the needs of foster care youth, the first conference in Iowa for high school and college age youth who were or had been in foster care was conducted. The conference sessions included general foster care issues and the potential establishment of a Foster Care Youth Advisory Board.

In general the youth expressed a desire for more input into the decisions that affect their lives and more attention to quality within the foster care system. There was significant interest in forming a Youth Advisory Board.

Services Contract

Following input from these various sources a Request For Proposal (RFP) was issued by DHS on October 15, 2001. A bid was accepted in February 2002.

The purpose statement to the RFP issue by DHS on the Chafee Act program stated:

The Iowa Department of Human Services (Department) is seeking proposals for a contractor to implement and administer a statewide Aftercare Program to provide appropriate support and services to former foster care recipients between 18 and 21 years of age. The primary goal of the program is for participants to achieve self-sufficiency and to assure that they recognize and accept their personal responsibility to prepare for and transition from adolescence to adulthood.

The RFP requires a “comprehensive outreach/advocacy program to expand Department, Juvenile Court Services, and Community awareness of and access to the program” and “collaborative partnerships with communities, agencies, and local organizations will be built upon or formed within each of the Department’s five (5) regions . . . and ninety-nine Iowa counties in order to pool resources, jointly plan, implement, and evaluate new services and procedures to most effectively meet the needs of program participants.” [RFP 3.2.2 and 3.2.3]

In addition, the contract provider is to “Develop a plan to evaluate and measure the effectiveness of program, its accessibility and responsiveness and the outreach program.” [RFP 3.2.4] The data to be collected is set by U.S. Department of Health and Human Services and includes:

- Percentage of participants who have resources to meet their living expenses
- Percentage of participants who have a safe and stable place to live
- Percentage of participants who attain education goals
- Percentage of participants who have positive personal relationships with adults in the community
- Percentage of participants who avoid involvement with high risk behaviors
- Percentage of participants who are able to access needed physical and mental health services
- Percentage of participants who have or know how to obtain essential documents, such as birth certificate, social security card (sic), medical/educational records.

Youth and Shelter Services, Inc. (YSS) submitted the bid accepted by DHS for this RFP. The program they developed is called the *Iowa Aftercare Services Network*. The network contains “ten Network agencies [that] are very knowledgeable of both adolescent and adult services resources. This knowledge will be necessary to bridge the gap between the two systems. All Network agencies provide either family foster care or independent living services or both.”

The Youth Policy Institute of Iowa will provide coordination, tracking, training, and evaluation. Participants will be tracked utilizing a Management Information System (MIS) similar to the Runaway and Homeless Youth MIS.

The first eight months of the grant will be the outreach and capacity building period. YSS currently participates in 25 statewide, national, and regional coalitions. They also participate in 25 local community collaborations.

The RFP submitted by YSS contained the following statement in its Scope of Services and Outcomes section:

With the exception of notable cases, such as that of Reggie Kelsey, little is known about what happens to youth who have aged out of foster care. . . . [YSS participated in the] National Institute on Mental Health longitudinal study of homeless youth that started in 1995 at Iowa Homeless Youth Centers. . . The initial study, entitled the Midwest Longitudinal Study of Homeless Adolescents, revealed the serious emotional and substance abuse problems of homeless youth. However, the study does not identify which homeless youth had formerly been foster children.

. . .

. . . Network members realize that the first year of the Iowa Aftercare Services Network will be an experiment, albeit well designed. Data collected during the first and subsequent years of the program will be vital for providing feedback to make aftercare services more efficient and effective and for expanding our basic understanding of the needs of the target population.

Youth to Adult Transition in Polk County Community Meetings

This “think tank” group began meeting in the summer following Reggie Kelsey’s death and is not related to the meeting conducted in preparation for submission of an Iowa application for Chafee Act funds.

Mr. Dale Schmitz, Area Service Coordinator for DHS,¹²³ stated in an interview with CAO:

Last summer, we decided after the unfortunate incident of the young adult who died [Reggie Kelsey] to convene some people in the community to talk about what services are available.

And we chose some agencies who we thought had or should have some involvement in transitioning that youth, either the agencies that work with children or the agencies that deal with adults, to make sure that everyone knew what was available from the various agencies, to make sure we were all coordinating to the best of our abilities and funds, and to see if there were any other things that could be done to make the transition smoother.

Several meetings were held. Minutes from August 15, 2001 meeting revealed several participants presented varied perspectives with common themes. The themes included the indications of serious need to address current transition process for foster children and change the system where needs and “gaps” were identified. Another theme throughout the meetings, as indicated in the meeting minutes, is that collaboration of all stakeholders in the foster child’s life is an important mechanism for bringing about a successful transition to adulthood.

According to the minutes from the August 15 meeting, Ken Riedel from DHS presented the following in his presentation on *Demographics of the Children*:

¹²³ Prior to December 2001, Mr. Schmitz held the title of Regional Administrator for DHS.

Children in foster care are controlled by rules and laws to protect them because they are not yet ready to protect themselves as they turn 18, and the next day this same person has the right to decide for themselves regardless of their ability. One day they have a social worker, county attorney, guardian ad litem and a judge to make decisions for them and at 18 they can now make their own decisions, and can decide to/not to use available adult services.

Children in foster care may be MR or MI or have behaviors that made transitioning to adulthood difficult. Even with a MR or MI characteristic it often does not rise to the level that protective legal action can be taken.

The Minutes also state Mary Ellison from DHS described three steps to begin the transition to adult services:

- There needs to be a re-determination of the child's SSI eligibility or providing them with medical if they are not SSI eligible
- Referrals for work training or vocational training, and monitoring their educational progress
- Determine the child's eligibility for specialized adult services

Ms. Ellison also described to the attendees at this meeting the Transition Committee operating in Polk County. A long list of Needs/Gaps was documented in the Minutes as being identified by the participants. This list was similar to that compiled by the Transition Planning Workgroup and included these issues:

- Community access to information about the many resources available to youth and young adults who need assistance when transitioning
- Better diagnosis and assessment of mental health for adolescents approaching adulthood. Ability to get evaluations for IQ and mental health diagnosis for older youth to refer them to adult services
- Child Welfare services are state based and adult services are county based. Transitioning youth to the adult system requires careful coordination for their success
- Inability for children to return to the foster care system after they leave when they are 18
- Youth are not able to fully access the resources because of their own limitations and the need/dependence on adults to do this for them
- Better communication between all parties
- Providing the level of support, guidance and nurturance for youth leaving the child welfare system and entering the adult system. Recognizing the youth may not have the emotional and developmental maturity to handle the expectations placed on them once they turn 18

- Making sure all DHS/JCS youth have a transition plan and having someone convene the interested parties together to put a comprehensive plan based on the youth's needs and not just focused on placement. Making sure the plan gets done, and everyone knows who to connect with
- Planning for failure not just when things are going well
- Services are lacking for some youth who have very disruptive or violent behaviors, or mentally ill youth who cannot manage their behaviors
- Lack of understanding of guardianship proceedings in adult court, the criteria for obtaining a guardian, and the role and responsibilities of a guardian. Lack of understanding the difference between the need for a mental health commitment and/or a guardian

Following the August 23 meeting of this group, several recommendations were noted in the minutes, including:

- Conduct collaborative planning between schools and community providers throughout the transition process
- Hold a joint transition planning committee session for all youth at age 17
- Have the Transition Planning Specialist call a meeting for youth age 17 to review the transition plan and to aid the decision to take cases to the Transition Team
- Implement a collaborative process to assure quality transition planning
- Assure integration of all information from all providers and the assignment of roles and responsibilities needed to meet the process requirements

At the August 23, 2001 meeting, a group created a flow chart of the process for transitioning youth out of child welfare into adult services. This flow chart was discussed and amended at future meetings. The final version of this flow chart is attached to this report as Appendix B.

CHRONOLOGY

Introduction

The Ombudsman investigated the practices and procedures used generally by the Iowa Department of Human Services (DHS) in transitioning youth out of Iowa's foster care system. The Ombudsman also investigated the particular actions and decisions of DHS in transitioning Reggie Kelsey from foster care to adult services.

This section presents the events the Ombudsman believes are relevant and significant in understanding when and how Reggie transitioned to adult services. The chronology draws from multiple sources – records of various agencies and organizations, as well as testimony from numerous persons involved in Reggie's life. An abbreviated time line is in Appendix C.

Chronology

Reggie was born Robert Terrance John Taylor on February 14, 1983.

Robert, -----, was removed from his biological parents' custody and placed into foster care on April 17, 1988. -----

----- On February 9, 1990, the biological parents' parental rights were terminated. -----
----- Robert became Reg Arthur Kelsey; most people who came to know him called him Reggie. In 1994, their parents divorced. Reggie remained with his mother. A year later, his mother remarried.

Over the next few years, Reggie exhibited increasingly inappropriate behaviors at school and home.

In March 1995, he was placed in a special class with a modified curriculum and a more structured environment due to disruptive behaviors in school. In October 1996, at a school staffing to review Reggie's progress, his mother reported he was not allowed to carry a book bag because "things that don't belong to him are found in the bag."

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124 -----

On December 5, 1997, the Juvenile Court adjudicated Reggie as a child in need of assistance because his parents were “unwilling or unable to provide” necessary treatment “to cure or alleviate serious mental illness or disorder, or emotional damage.” Custody was placed with Iowa Department of Human Services (DHS) for “placement commensurate with child’s needs.” On January 14, 1998, Reggie’s case was assigned to Karin Ford,¹²⁸ Polk County DHS Foster Care Social Worker II.

Ford placed Reggie on a waiting list for Orchard Place,¹²⁹ a psychiatric medical institution for children, to obtain an evaluation. She told the Ombudsman, “[M]y reasoning for placing him in

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¹²⁷ Youth Emergency Services & Shelter (YESS), in Des Moines, Iowa, provides emergency shelter and counseling services to runaway, homeless, abused, or troubled adolescents. YESS also offers a 24-hour nursery program for young children affected by family crisis. [*Factsheet, Youth Emergency Services & Shelter, Steven N. Blank Variety Club Youth Center*]

¹²⁸ Ford told the Ombudsman she joined DHS “in January of ‘89, worked in foster care for five years, transferred to the adult unit for three, and then returned to the foster care unit in, I want to say, ‘97.”

¹²⁹ Orchard Place-Child Guidance Center, in Des Moines, Iowa, offers outpatient, residential, community-based, school-based, juvenile justice, and addictive services to children with emotional and behavioral disorders. Orchard Place, a Psychiatric Medical Institution for Children, offers “psychotherapy and individualized special education programs in a healthy, friendly living environment on a 1 Q-acre site in the south part of Des Moines.” Orchard Place also offers diagnostic evaluations “for those whose treatments are unclear.” [*Website, Orchard Place-Child Guidance Center, www.orchardplace.org*]

a psychiatric facility even though he had displayed so many behavioral problems was that I didn't have any work-up on him at all. He came to me with a cover sheet ... with no information at all."

Ford's initial goal was to engage Reggie's adoptive parents; but when that failed, she had to "reassess a long-term plan." Her goal was for him to be a successful adult. When asked how she thought she would get him there, she told the Ombudsman, "Through treatment and keep stepping him down through the levels of care and providing him skills to care for himself."

Reggie turned 15 years old on February 14, 1998.

On April 15, 1998, Reggie was admitted to Orchard Place. In approving him for admission, Child Psychiatrist Dr. Donner Dewdney diagnosed Reggie's condition as "Attention Deficit Disorder"¹³⁰ and "Borderline Mental Retardation."¹³¹

On May 22, 1998, Reggie scored below average on the Kaufman Brief Intelligence Test.¹³²

In her June 4, 1998 Case Permanency Plan, Ford reported "long-term foster group care" as the permanency goal. In the responsibilities section for Orchard Place, she included, "Provide for independent living skills." She wanted Reggie to learn how make his bed, change his sheets, wash his clothes, brush his teeth, handle money exchanges, balance his allowance, and manage his medications.

At a staffing at Orchard Place on July 15, 1998, Ford observed, "[Reggie] continues to display limited social skills and little insight on how to change his behaviors."¹³³

¹³⁰ "The essential feature of Attention-Deficit/Hyperactive Disorder is a persistent pattern of inattention and/or hyperactivity-impulsivity that is more frequent and severe than is typically observed in individuals at a comparable level of development. Some hyperactive-impulsive or inattentive symptoms that cause impairment must have been present before age 7 years, although many individuals are diagnosed after the symptoms have been present for a number of years ... Some impairment from the symptoms must be present in at least two settings (e.g. at home and at school or at work). There must be clear evidence of interference with developmentally appropriate social, academic, or occupational functioning." [*Diagnostic and Statistical Manual of Mental Disorders, 4th ed., Text Revision*, American Psychiatric Association, Washington, DC (2000), p. 85]

¹³¹ "Borderline Intellectual Functioning. This category can be used when the focus of clinical attention is associated with borderline intellectual functioning, that is, an IQ in the 71-84 range. Differential diagnosis between Borderline Intellectual Functioning and Mental Retardation (an IQ of 70 or below) is especially difficult when the coexistence of certain mental disorders (e.g. Schizophrenia) is involved." [*Diagnostic and Statistical Manual of Mental Disorders, 4th ed., Text Revision*, American Psychiatric Association, Washington, DC (2000), p. 740]

¹³² According to Des Moines School Psychologist Diann Walls, Reggie scored below average on the Kaufman Brief Intelligence Test (K-BIT). Walls described the K-BIT as a "brief individually administered measure of non-verbal and verbal ability." According to Walls, the test assesses "Vocabulary" and "Matrices." "Vocabulary measures one's word knowledge and vocabulary background. The Matrices measures one's ability to solve new problems, perceive visual relationships, and complete analogies using pictures and abstract designs." [*Report of Psychological Services, Walls, Des Moines Public Schools, May 22, 1998*]

¹³³ Ford noted this observation in her "Narrative Continuation," a seven-page document containing all of her case notes regarding Reggie by date, beginning January 14, 1998 (case assigned) and ending February 14, 2001 (case closed). See Appendix E. Ford told the Ombudsman her Narrative is "a dialogue of what's been going on in the case ... much like a nurse's recording of a hospital stay or a visit to the doctor: who, what, and why."

In Orchard Place's quarterly report to Ford, dated July 16, 1998, Clinical Social Worker Jan Ankeny reported Reggie's typical response to stress was to "become extremely rude and defiant with authority figures, particularly females." Orchard Place's treatment focus, according to Ankeny, was to increase Reggie's adaptive behavior and problem-solving skills with the goal of assisting him "in managing more effectively during stress."

In Orchard Place's discharge summary to Ford, dated January 12, 1999, Therapist Kathy Byers and Social Worker Diane Worick discussed Reggie's goals and progress, his move to off-campus school, the significant disparity between his verbal and performance IQs, as well as his after-care plan at Youth Homes of Mid-America (YHMA)¹³⁴ and beyond; and then opined Reggie would "most likely" need adult living services to maintain basic functioning.

In her October 28, 1998 Case Permanency Plan, Ford again recorded "long-term foster group care" as the permanency goal, but noted, "Because of his behaviors and need for socialization it is this writer's opinion that he continue in placement gradually moving towards independent living." When asked what she meant by "gradually moving towards independent living," she told the Ombudsman, "That he'd go to a less structured facility and continue to step down in levels of care."

Reggie moved to the YHMA campus, a residential treatment center in Johnston, Iowa, on October 30, 1998. He was placed in Ross Cottage. According to YHMA's Chief Operating Officer Michael Arndt, Ross is the only "comprehensive" cottage on campus. Arndt told the Ombudsman, "In the State's terminology, it is a lower level of care, and all it really means is there is less staff-to-client ratio. A comprehensive facility has a one-to-five ratio. An enhanced facility has a one-to-three. In addition to that, in a comprehensive cottage, you're required to have two hours of counseling or therapy a week, and in an enhanced cottage, you're required to have three hours of counseling every week."

On December 2, 1998, Reggie was discharged from Ross and transferred to the enhanced Grubb West Cottage due to his "need for attention and closer supervision."¹³⁵ According to Arndt, "When Reggie first came in, the worker [Ford] had determined he fit the comprehensive mold better, that he would do well in a cottage with a less staff ratio and less counseling. It became apparent very quickly to us that Reggie needed more than he was getting in that cottage, so he was transferred to Grubb where we had an opening, and it's a simple walk across campus."

In a progress report to Ford, dated January 1, 1999, YHMA staff summarized Reggie's first thirty days at Grubb Cottage. They reported a number of behavior problems, including lying and stealing, that "interfere with his ability to effectively work the program." They also reported he was "confused about sexuality" and had "struggled to understand what are normal and what are abnormal thoughts and behavior."

¹³⁴ Youth Homes of Mid-America (YHMA), in Johnston, Iowa, is a non-profit corporation offering a variety of treatment programs and residential services for children (and their families) with severe behavioral and emotional problems. "Our services include residential living in a campus environment, supervised group home living, and in-home and community-based treatment programs." [*Brochure, Youth Homes of Mid-America*] "Our clients are young people with problems that can't be resolved at home. They are all from Iowa and range in age from 12 to 18. They are placed with us by the Iowa Juvenile Courts and the Iowa Department of Human Services." [*Website, Youth Homes of Mid-America, www.yhma.org*]

¹³⁵ "Ross Campus Discharge Summary," YHMA, December 10, 1998.

Dr. Jeffrey Kerber, a Marriage and Family Therapist under contract with YHMA, first met with Reggie on January 13, 1999. Dr. Kerber told the Ombudsman, “At that time ... He was being asked to have an evaluation with myself because of a history that was unclear as far as his previously established psychiatric history -----.” According to Dr. Kerber, Reggie was also being seen for ADHD and Oppositional Defiant Disorder, “and at that point in time back in ’99 he had demonstrated some previous history for psychotic symptoms.”

Reggie’s Individualized Education Program (IEP), updated February 8, 1999, indicates he was placed in a “self-contained” classroom with a weighting of 3.6.¹³⁶

Reggie turned 16 on February 14, 1999.

On June 1, 1999, YHMA staff reported Reggie had made “many improvements” and was “taking a much more realistic view of his life.” They reported he had “few instances of lying or stealing behaviors” and “much more normal thoughts, feelings, and ideas relating to sexuality.” They also reported Reggie’s school attendance and productivity had “drastically improved since the last reporting period.”

On August 28, 1999, YHMA staff again reported improvement. “Reggie continues to excel in the program and has shown consistency in both attitude and behavior.” Reggie had just one incident of lying and stealing, which was “a great improvement.”

During this same reporting period, according to Arndt, his staff came up with the idea of a mentor for Reggie because he responded so well to one-on-one adult interaction. David Beamer, an Independent Living Counselor for YHMA, told the Ombudsman he began mentoring Reggie in late-1999 or early-2000. “We would meet and usually go have a meal together. I’d take him to the movies or bowling, Putt-Putt. He liked to go to the mall a lot. But we ceased that because he had a history of stealing – pretty good history of stealing.”

In her October 28, 1999 Case Permanency Plan, Ford reported Reggie had made “remarkable progress while in placement.” He had “a brighter outlook on life and engages with staff and peers appropriately.” She noted the possibility of placing Reggie in a family setting or maybe Girls and Boys Town.¹³⁷ She told the Ombudsman she explored the possibility of a foster home because Reggie had been doing so well; but when none was available, she pursued Girls and Boys Town “because that would be the closest family setting besides a foster home.”

On November 26, 1999, YHMA staff reported, “Overall, this has been a positive report period for Reggie.” He has shown “emotional growth and leadership skills.” They noted his sexual issues were “not actively being addressed due to advancement in this area.” They also noted he

¹³⁶ When asked to explain weights and weightings, Sharon Kurns, Supervisor of Instructional Services, Heartland Area Education Agency 11, told the Ombudsman, “I think the easiest way to think about that is just the level of [special education] services that are needed for a student.” She said, “A student at level 3 probably has a need for services all day long.”

¹³⁷ Girls and Boys Town has 18 sites in 13 states across the country. Its National Headquarters and largest child-care facility are located at the Village of Boys Town in Nebraska. The Village is “a complete community in itself with two churches, farmland, a post office, a police station, a fire station, a high school, a middle school and more.” Its Residential Services Program cares for children “in 72 homes located on 900 acres in west Omaha, Neb.” [Website, *Girls and Boys Town*, www.girlsandboystown.org]

“managed the change to off-campus school well” and obtained employment at a local movie theatre.

DHS Transition Planning Specialist Dan Myers interviewed Reggie at YHMA on December 7, 1999, at the request of YHMA Counselor Katie Lacy, “for the purpose of formulating a life skills assessment.”¹³⁸

Myers gave Reggie the “Daniel Memorial Assessment for Life Skills” test. Reggie scored 143 correct out of 231 questions for an “Average Level of 2.9,” which is between “2-Intermediate” and “3-Adequate.” When asked if Reggie’s 2.9 average score indicated he was capable of living independently, Myers told the Ombudsman, “[H]e did adequately enough on enough subjects, yeah, he’d probably be alright.”

In a December 8 memo to Lacy and Ford, Myers summarized his interview with Reggie. He stated Reggie would be graduating from high school at age 19.2, which leaves “some option for voluntary foster care on his 18th birthday.” But he also stated Reggie intended to leave the system at age 18 because he wanted “to take control of his own life.” Myers recommended they prepare Reggie for the decision, “whether he goes into voluntary foster care when he turns 18 years old, or just graduates out of the foster care system.”

Reggie turned 17 on February 14, 2000.

On February 25, 2000, YHMA staff reported, “Reggie has had a very positive reporting period due to continued growth in many areas.” He has “improved on dealing more assertively with others, but still gets taken advantage of on occasion by his peers.” They also reported he has “recently been having problems distinguishing between healthy and unhealthy sexuality.”

Reggie, Ford, and YHMA Cottage Coordinator Stephanie Wauters visited Girls and Boys Town in Omaha on March 29, 2000. Ford observed, “Reggie was supportive and excited about the possibility of placement” there.¹³⁹

On May 17, 2000, Ford called Reggie and reported Girls and Boys Town had turned him down. Ford told the Ombudsman she did not understand why Reggie was rejected. “He presented very well ... I think probably because his history of sexually acting out was the reason why they didn’t take him, but they wouldn’t tell me that. They just said they didn’t think they could meet his needs.”

Reggie moved back to Ross Cottage on June 2, 2000. According to Wauters, Reggie had “made progress in his treatment” and needed “to focus on learning more independent living skills.”¹⁴⁰

Ford made a referral to Job Corps¹⁴¹ on June 7, 2000. When asked what she thought Job Corps would do for Reggie, Ford told the Ombudsman, “Provide him with vocational and independent living skills as well as a supervised setting till he was twenty-one.”

¹³⁸ Memo from Myers to Lacy and Ford, DHS, December 8, 1999. *See* Appendix F.

¹³⁹ “Narrative Continuation,” Ford, DHS, March 29, 2000.

¹⁴⁰ “Ross Campus Discharge Summary,” YHMA, June 12, 2000.

On July 14, 2000, YHMA staff reported, “Reggie’s main focus is to now build independent living skills.” They reported an application had been made to Job Corps; but if Job Corps falls through, then Reggie “should go to Bracewell Group Home¹⁴² to better prepare him for eventually moving to independent living.” They also reported Reggie had quit his job at the movie theatre in hopes of training to become a bricklayer while at Job Corps.

On August 31, 2000, YHMA staff reported Reggie had been “anxious lately because of the uncertainty related to his Job Corps acceptance,” and, as a result, had “increased his lying and manipulations.” They reported Reggie had been “caught stealing” and had been “more verbally aggressive with both staff and peers.” They also reported, according to his teacher at Johnston High School, Reggie was “continually very moody and lacks concentration in class” and was “struggling to meet assignment dates in a timely manner.”

On September 26, 2000, YHMA Cottage Coordinator Jeffrey Jansen called Ford and reported he spoke with a Job Corps counselor, who said there was still no decision on Reggie. Jansen also reported Reggie’s medication had been changed to Dexedrine;¹⁴³ and he is having “aggressive sexual fantasy’s (sic) about female staff” and has been “masturbating on the unit.” Ford noted she supported “moving him to Bracewell and preparing him for independent living because it does not appear as though he is going to get into Job Corps.”¹⁴⁴

According to Jansen, negative behaviors and a new medication were enough for Job Corps to pass on Reggie’s application. “The past several months have been hard for Reggie because he didn’t know when or if he was going to be accepted into the Job Corps program. He eventually got the answer that he indeed was accepted, but by this time his anxieties had got the best of him and he was displaying several negative behaviors. These, as well as him being started on a new medication, were enough for the Job Corps people to say that now may not be the best time for Reggie to enter their program.”¹⁴⁵

At a group therapy meeting on October 2, 2000, Jansen observed, “Reggie was excited about moving to Bracewell and getting away from campus,” but he was also “nervous about turning 18

¹⁴¹ Job Corps, a public-private partnership administered by the U.S. Department of Labor, is “the nation’s largest and most comprehensive residential, education and job training program for at-risk youth, ages 16 through 24. Since its inauguration in 1964, under the Economic Opportunity Act, Job Corps has provided more than 2 million disadvantaged young people with the integrated academic, vocational, and social skills training they need to gain independence and get quality, long-term jobs or further their education.” [*Website, Job Corps, www.jobcorps.org*]

¹⁴² Bracewell Group Home, operated by YHMA, located in Des Moines, Iowa, is a structured living environment in a small group setting. “Typical Client Characteristics: Males age 12 to 18, Verbally assaultive, Behavioral and/or emotional problems, Sexual abuse victims or perpetrators, Learning disabilities or other special educational needs, and Dysfunctioning family systems. Profile of Clients *Not Served*: Severely emotionally disturbed, requiring intensive medical or specific psychiatric care, Suicidal, Mentally retarded or developmentally disabled, Habitually assaultive, violent, or dangerous threat to themselves or others.” [*Website, YHMA, www.yhma.org*]

¹⁴³ Dexedrine (dextroamphetamine sulfate): “ACTION – Unknown. Probably promotes nerve impulse transmission by releasing stored norepinephrine from nerve terminals in the brain ... In children with hyperkinesia, dextroamphetamine has a paradoxical calming effect.” [*Nursing 2002 Drug Handbook, 22nd ed., Springhouse Corp., 2002, p. 501*]

¹⁴⁴ “Narrative Continuation,” Ford, DHS, September 26, 2000.

¹⁴⁵ “Ross Campus Discharge Summary,” YHMA, October 9, 2000. See Appendix G.

soon and about making decisions that could greatly affect him.” Jansen noted Reggie had made “several poor decisions” in the past few weeks “probably due to him acting out on his anxieties about not knowing if he would go to Job Corps or Bracewell.”¹⁴⁶

Reggie left campus and entered Bracewell Group Home on October 2, 2000. Jansen reported, “Bracewell should allow Reggie a gradual transition between campus and his own apartment.”¹⁴⁷

Reggie spent three and one-half months at Bracewell, from October 2 to January 15, 2001. “The goal was to get Reggie out into the community as much as possible to better him for life on his own,” according to Jansen. “Unfortunately, Reggie’s behavior restricted him from fully taking advantage of the opportunities that were available to him.” Jansen reported, “Reggie made progress at his established goals, but often they were overshadowed by his relapses of concerning behaviors.” Throughout his stay at Bracewell, Reggie “struggled with avoiding the urge to steal.” He stole from stores, school, peers, and staff. He told Jansen he “enjoyed the rush.”¹⁴⁸

On October 17, 2000, Job Corps called Ford. “Reggie was not accepted into their program.” Ford reported the news to Jansen, and noted, “Will begin transition into Independent Living.”¹⁴⁹

As independent living got closer and closer, Reggie got more and more anxious about being alone, which resulted in increasingly worse behavior. Jansen reported, “He increased the amount he approached staff to discuss these issues, but he also increased his amount of ineffective coping strategies.”¹⁵⁰

Reggie attended Roosevelt High School from October 3 to March 15, 2001. During both semesters, Special Education Teacher Frances Graziano served as Reggie’s primary classroom teacher and his case manager for monitoring and updating his IEP.

According to Graziano, when Reggie came into the program he was “fairly successful in a self-contained setting with very rigid guidelines, controls.” When asked to describe and compare Reggie’s behavior in first and second semesters, Graziano told the Ombudsman, “First semester he was definitely a pleaser and he really, really wanted to please us. Second semester I would describe it as he started disintegrating ... The further he got away from [YHMA campus] the more he started deteriorating.”

Although considered an 11th grader, Reggie was “generally working on a 3rd to 4th grade level in all areas,” according to the results of the “Adult Basic Learning Exam,”¹⁵¹ administered by Graziano, on October 5, 2000.

¹⁴⁶ “Group Therapy Report,” Jansen, YHMA, October 2, 2000.

¹⁴⁷ “Ross Campus Discharge Summary,” YHMA, October 9, 2000.

¹⁴⁸ “Bracewell Group Home Discharge Summary,” YHMA, January 18, 2001. *See* Appendix H.

¹⁴⁹ “Narrative Continuation,” Ford, DHS, October 17, 2000.

¹⁵⁰ “Bracewell Group Home Discharge Summary,” YHMA, January 18, 2001.

¹⁵¹ According to Des Moines Public Schools Psychologist Deborah A. Hill-Davis, Reggie took the Adult Basic Learning Exam on the computer “and worked independently on it.” He scored 4.7 grade level in Vocabulary, 3.5 in

According to her file notes, Reggie's Attorney and Guardian Ad Litem Karen Taylor visited Reggie on October 17, 2000, at which time he told her he "[s]tole recently from Merle Hay Mall – not doing quite as well – misses Youth Homes. Thinks things will get better – he will cont. [continue] voluntary services past 18. Wants to get his own apartment." Taylor told the Ombudsman, "When I spoke with him in October, he was still going through an adjustment period. At that point in time, he seemed to be wanting – He had indicated that he missed being at Youth Homes."

In her final Case Permanency Plan for Reggie, submitted to the Polk County Juvenile Court on October 27, 2000, Ford reported Reggie "will continue to work on developing effect[ive] coping skills, appropriate communication skills and independent living skills," but, "[i]t is unlikely that Reggie will move into his own apartment for another year." She stated she believed Reggie would need "continuing support as an adult and will pursue a case manager in Adult Services."

After a group therapy session with Reggie and other youth on November 7, 2000, Jansen noted, "Reggie has [not] obtained a job yet and he doesn't seem to think it is of great importance that he gets one. He continues to steal from others and consequences mean little to him."¹⁵²

After meeting with Reggie on November 13, 2000, Dr. Kerber noted Reggie reported "lots of stealing," including a book and a Playboy video. Dr. Kerber also noted Reggie "states not sure why stealing" and "feels stealing is compulsive."¹⁵³

On November 29, 2000, Jansen reported Reggie was having "daily struggles with acting out his anxieties through self-destructive behaviors and thoughts." He also reported he believed Reggie needed to be in independent living before he turned 18. "Reggie will be much more motivated to sign on and stay if he is already in the program he is working toward."¹⁵⁴

Dr. Kerber met with Reggie on December 1, 2000 and noted Reggie was "feeling persecuted by all peers," "peers hitting him he wants to blow up – frustrated," and he "wants to be an astronaut."¹⁵⁵

On December 14, 2000, Reggie told Ford he wanted to go to his own apartment; he believed he was "ready." Ford counseled Reggie about his stealing. Reggie said he stole "due to being nervous about Independent Living."¹⁵⁶ When asked if she believed Reggie understood what it

Reading Comprehension, 3.2 in Spelling, 3.2 in Language, 4.5 in Numerical Operations, and 3.5 in Problem Solving. "He can do a little better when he has tests read orally and teacher guided performance as on the Woodcock Johnson-Revised. Overall, his independent work skills are at a 3rd to 4th grade level which is consistent with his performance in the classroom at Roosevelt." [*"Team Assessment Report," Hill-Davis, Ed.S. NCSP, Des Moines Public Schools, February 28, 2001*]

¹⁵² "Group Therapy Report," Jansen, YHMA, November 7, 2000.

¹⁵³ "Progress Notes," Dr. Kerber, Counseling Centers for Central Iowa, November 13, 2000.

¹⁵⁴ "Bracewell Group Home Quarterly Report," YHMA, November 29, 2000. See Appendix I.

¹⁵⁵ "Progress Notes," Dr. Kerber, Counseling Centers for Central Iowa, December 1, 2000.

¹⁵⁶ "Narrative Continuation," Ford, DHS, December 14, 2000.

was going to be like to be in his own apartment, Ford told the Ombudsman, “No.” She said the “loneliness factor was going to bother him.”

Dr. Kerber met with Reggie on December 18, 2000 and noted Reggie reported he was “caught stealing @ Walden Books – pornography” and “his urge to steal is getting bad.” Dr. Kerber also noted Reggie’s language was “full of cussing – loss of self-respect.”¹⁵⁷

Dr. Kerber met with Reggie again on January 5, 2001 and noted Reggie produced a Swiss army knife and claimed “staff was aware of it.” Dr. Kerber also noted Reggie displayed the knife “but made no threats of self-harm or harming others” and “he is often angry @ school peers but [no] thoughts of hurting them.”¹⁵⁸

On or about January 13, 2001, Beamer told Graziano and other teachers at Roosevelt High School that Reggie would be moving to his own apartment. When asked why he informed Graziano and the other teachers about the move, Beamer told the Ombudsman, “To let them know to monitor this kid’s behavior a little more closely because of the freedoms, and to contact myself or other ABIL¹⁵⁹ counselors to let us know if he’s tardy or things of that nature.”

According to Beamer, when he told the teachers, “[T]hey were concerned.” When asked for Graziano’s reaction, he told the Ombudsman, “She wasn’t happy.” When asked why, he said, “Because I think she had concerns about his mental – his ability to live on his own successfully without failing in school and getting in trouble.”

Graziano asked Beamer if there was anything they could do to stop the move. She told Beamer she wanted the move stopped because Reggie was not capable of living independently. Beamer referred her to Ford. Graziano then telephoned Ford and told her she did not think Reggie could make it on his own. “I told her my concerns. I said, ‘Reggie is on my case list. I’m concerned. This kid is functioning well below grade level. He’s mentally disabled. He’s not going to make it on his own.’” According to Graziano, Ford responded, “It’s time. He’s turning 18. And there were no services available. He’s 18 and it’s time.”

Ford remembered a conversation with Graziano, occurring in January or February 2001, when Graziano said she did not believe Reggie should be in independent living. According to Ford, she told Graziano, “I had to work in the system that I was in and that I had known Reggie for a long time and that he made a lot of accomplishments and ... the recommendation was to move him to independent living.”

When asked to explain how she went from, “It is unlikely that Reggie will move into his own apartment for another year” in her October 2000 Case Permanency Plan to the decision to move Reggie into his own apartment in mid-January 2001, Ford told the Ombudsman, “That was a decision that the providers made, that they felt that he could move into an apartment and that he

¹⁵⁷ “Progress Notes,” Dr. Kerber, Counseling Centers for Central Iowa, December 18, 2000.

¹⁵⁸ Ibid., January 5, 2001.

¹⁵⁹ ABIL (Apartment Based Independent Living) is a program offered by YHMA to help youth “on the verge of turning 18 and who have no family to support them.” YHMA counselors “assist the youth in finding affordable apartments, part or full time jobs, finish high school, and complete their treatment program.” [*Brochure, Youth Homes of Mid-America*]

was ready for that.” Ford said even though she agreed with the decision, she had reservations, as she does with all of her kids. “I agreed with it. But with all my kids, I have reservations because I think that they need more supervision.”

On January 15, 2001, Reggie moved into his own apartment on Ingersoll Avenue in Des Moines, about three blocks from Roosevelt High School.

YHMA’s Director of Community Services Douglas Wolfe told the Ombudsman the biggest difference between Bracewell and ABIL is, “[W]e move from five in a building ... with a full-time staff awake all the time ... to an apartment, a one-bedroom or an efficiency apartment where the child has a counselor checking in from time to time.”

On January 16, 2001, the morning after moving to his own apartment, Reggie came to school in a “drunken-like” state. Graziano called Beamer because she thought Reggie was drunk. Beamer thought he was either sleep-deprived or on some non-alcoholic substance. Graziano told the Ombudsman, “I asked Dave (Beamer) to come up and get him and Dave took him home. And there was some question about whether he had taken his medication or not taken his medication, mixed it with – it smelled like peppermint schnapps. We don’t know.”

Reggie “struggled big-time from the get-go” at ABIL, according to Beamer. “He failed to look for a job ... He was cutting classes quite a lot ... He would come to school acting really strange and stuff.” Beamer told the Ombudsman he believed Reggie experimented with drugs and alcohol. “I met with him quite a bit during the weeks, you know, as much as I could, to try to get him to correct himself in these areas. But nothing seemed to click. I think he was – I think he was scared to live on his own.”

While at Bracewell, staff administered Reggie’s medications. At ABIL, he was on his own. And according to Beamer, “He didn’t do well. He – I think he admitted to me that he was either, A, not taking them, or B, was giving them to friends or whatnot, or that ----- character [another youth in ABIL].” Beamer told the Ombudsman, “When the two of them [Reggie and -----] got together, it was chaos.”

On January 26, 2001, Reggie was suspended from school for five days for possessing a small utility knife.

At the end of January 2001, Beamer began contacting Wolfe, his immediate supervisor, with concerns about Reggie. Wolfe told the Ombudsman he gave Beamer advice and kept Ford informed via telephone.

According to Ford’s notes, Wolfe telephoned her on January 26 and reported Reggie was “struggling with the lack of structure and supervision.” He was “self-harming, under socialized. He stole a tape from Merle Hay Mall, he is banned from there. They will keep tabs on him.”¹⁶⁰

On January 29, 2001, again, according to Ford’s notes, Wolfe called her and reported, “Reggie is being discharged from their program.” “He can not go back to campus they do not have an opening. He will go to shelter. Made a referral to the adult unit.”¹⁶¹

¹⁶⁰ “Narrative Continuation,” Ford, DHS, January 26, 2001.

¹⁶¹ Ibid., January 29, 2001.

According to Wolfe, the decision to discharge Reggie from ABIL was not made and not communicated to Ford until February 2, 2001, the day Reggie moved to YESS. Wolfe told the Ombudsman problems at school prompted a conference with Reggie and Beamer. During that conference, Wolfe asked Reggie, “Do you feel you can be safe here and work this program?” Reggie answered, “No.” According to Wolfe, “And when he had no hope or no desire to work the program, I couldn’t have him here anymore, and we discharged him.”

Beamer’s notes of contacts with Reggie from January 29 to February 2, 2001, as well as his January 30 letter to Ford, corroborate Wolfe’s account of when the discharge decision was made and communicated to Ford.

At 12:05 p.m., January 29, Beamer picked up Reggie at his apartment and took him to his appointment with Dr. Richard Nightingale, a psychiatrist under contract to YHMA. Beamer talked with Dr. Nightingale to “let him know the concerns we have with Reggie and that adult services may be needed soon.” After the appointment, Beamer took Reggie to Wal Mart “to pick up a few things he needed.” Beamer and Reggie planned to do laundry the following morning.¹⁶²

After meeting with Reggie on January 29, Dr. Nightingale reported Reggie was having problems with his independent living program. “In listening to him discuss this, it was difficult to tell if he simply didn’t like following rules or if he was trying to sabotage his independent living program.” Dr. Nightingale reported Reggie “acknowledged that he had been playing with fire in his apartment but didn’t think it was any big deal” and “accepted responsibility for his actions and wasn’t blaming anybody else.” He also reported Reggie was “slightly dysphoric” and his mood was “slightly labile.”¹⁶³ Dr. Nightingale continued his diagnoses of “Conduct Disorder, Adolescent Onset, and Depressive Disorder NOS [Not Otherwise Specified]” and reported he was “going to replace his ADHD diagnosis with Psychotic Disorder NOS.”¹⁶⁴

Ford expected the change in diagnosis, from ADHD with psychotic features to Psychotic Disorder NOS. She told the Ombudsman, “I knew he would roll into that. I knew that’s what would happen.” She said the change gave Reggie an adult diagnosis that guaranteed adult services.

In a letter to Ford, dated January 30, 2001, Beamer requested compensation for more individual supervision hours for Reggie. According to Arndt, DHS determines the level of supervision by purchasing blocks of time or so many hours per week. Arndt told the Ombudsman Reggie required ten to fifteen hours per week, which was “higher than any kid we had or have since had.”

¹⁶² “Contact Notes,” Beamer, YHMA, January 29, 2001.

¹⁶³ “Psychiatric Note,” Dr. Nightingale, January 29, 2001.

¹⁶⁴ “This category [Psychotic Disorder Not Otherwise Specified] includes psychotic symptomology (i.e., delusions, hallucination, disorganized speech, grossly disorganized or catatonic behavior) about which there is inadequate information to make a specific diagnosis or about which there is contradictory information, or disorders with psychotic symptoms that do not meet the criteria for any specific Psychotic Disorder.” [*Diagnostic and Statistical Manual of Mental Disorders, 4th ed., Text Revision*, American Psychiatric Association, Washington, DC (2000), p. 343]

In his January 30 letter, Beamer stated each youth in ABIL typically receives thirty hours of individual supervision and ten hours of group care each month. He stated Reggie struggled in the first two weeks of ABIL. “On Friday, January 26, Reggie was suspended from school for a week for bringing a knife to school. He has also been caught stealing, lying, breaking curfew, missing school, burning things in his apartment. He has reported to this counselor of hallucinating at night.” Beamer stated, “Because of all these problems, Reggie has required extra care this month.” He stated he made many unannounced visits and is “currently spending most of the day with him while he is suspended.”

At 9:20 a.m. January 30, Beamer picked up Reggie at his apartment and took him to do his laundry. “While there, he read the paper and watched t.v.” Beamer noted, “I let him know Doug [Wolfe], Karin Ford, and myself decided it was best for him to stay in the program for now, and that he wouldn’t be going to adult services unless he messes up again.”¹⁶⁵

On February 1, 2001, Reggie left “some disturbing messages” for Beamer on phone mail, “such as ‘just sitting here jacking off’ and ‘I’m leaving this motherfucking program tomorrow.’” When confronted about the messages, Reggie said he was “angry and didn’t think he could make it in this program.” According to Beamer, “I told him to get some rest and we would talk more in the morning.”¹⁶⁶

At the beginning of the school day, on February 2, 2001, Beamer and Reggie met with an administrator at Roosevelt High School to discuss Reggie’s January 26 suspension. The administrator reviewed school rules and policies, and “gave Reggie some advice.” “Reggie was then allowed back into Roosevelt.” Beamer “processed with Reggie how he must do his best to stay out of trouble, and how he should feel fortunate to be let back into school.”¹⁶⁷

Following the meeting at school, Reggie met with Dr. Kerber. According to Dr. Kerber, Reggie reported hallucinations, “like biological mother hitting him.” He also reported hearing the voice of his dead grandfather. Dr. Kerber noted: “lot of cussing,” “wanted to quit program,” “back in school as of today,” “giving his script meds to kids,” “not learning from mistakes,” “poor credibility,” and “no effort to get job yet.”¹⁶⁸

Later that afternoon, a Central Campus administrator telephoned Beamer and reported Reggie was “caught stealing a meat cleaver and several other items from school and that they were going to have him arrested and taken to Meyer Hall [Juvenile Detention Facility].”¹⁶⁹ Beamer met with the administrator and the police officer assigned to the school. Beamer was told to pick up Reggie “in a couple of hours from Intake [at Meyer Hall].” Beamer made “some phone calls” to

¹⁶⁵ “Contact Notes,” Beamer, YHMA, January 30, 2001.

¹⁶⁶ Ibid., February 1, 2001.

¹⁶⁷ Ibid., February 2, 2001.

¹⁶⁸ “Progress Notes,” Dr. Kerber, Counseling Centers for Central Iowa, February 2, 2001.

¹⁶⁹ On November 28, 2001, a new Polk County juvenile detention facility opened, replacing the half-century old “Meyer Hall.” Like the old Meyer Hall, the new facility, called the “Polk County Juvenile Detention Center,” is located on Hull Avenue in Des Moines and serves youth ages 12-17 who require a 24-hour locked correctional setting. [*Website, Polk County, Iowa, www.co.polk.ia.us*]

Ford and “it was decided [Reggie] would be placed at YESS for the weekend until we could figure out what to do with him.”¹⁷⁰

Reggie was suspended from school for theft. He admitted stealing a meat cleaver knife and electric knife blades from the Central Campus Tea Room.

Ford told the Ombudsman the independent living setting “failed miserably after ten days.” She said she asked YHMA staff if Reggie could return to campus, but “they didn’t have any openings at the time.” She said she thought he was going to be held at Meyer Hall, which would have given her more time to “figure out the next step,” but charges were not filed “and he walked.”

When asked what her plan was if Reggie failed independent living, Ford said, “Return him back to campus.” When she learned YHMA campus had no opening then her goal was to keep him at a shelter until there was an opening. She said at the time she did not know youth shelters would not keep anyone past age 18.

According to Ford, during this same time period she made a referral to the Polk County DHS Adult and Family Services Unit. She told the Ombudsman she also made referrals to Westminster House¹⁷¹ and Mainstream Living.¹⁷² She said she hand-delivered packets, containing case plans and YHMA reports, as well as any available psych reports, to each of those adult residential facilities sometime in January 2001. She said she did not enclose cover letters or otherwise document her delivery of those packets.

Neither Westminster House nor Mainstream Living could confirm Ford’s delivery of packets. According to Linda Campfield, Administrator at Westminster House, her agency has no record of receiving any packet or referral from anyone regarding Reggie in January or February 2001. According to LuAnn Wingfield, Administrator at Mainstream Living, her agency has no record of ever receiving a packet or referral on Reggie.

On February 5, 2001, Beamer took some of Reggie’s belongings to YESS. Reggie asked about his options, “since he turns eighteen in nine days.” Beamer explained his options and Reggie said he “would commit to any one of them.”¹⁷³ When asked what he explained to Reggie, Beamer told the Ombudsman, “Well, at that time, I thought the YMCA was still an option. I might have had knowledge of Westminster at that point. I’m not sure. I know those were probably two of his options.”

On February 7, 2001, Reggie met with a “support service team” at Roosevelt High School to review his IEP. The team included Graziano, School Social Worker Emily Burroughs, Vice Principal Ron Adcock, School Psychologist Deborah Hill-Davis, and Special Education

¹⁷⁰ “Contact Notes,” Beamer, YHMA, February 2, 2001.

¹⁷¹ Westminster House, Inc., in Des Moines, Iowa, an affiliate of Behavioral Health Resources, Inc., provides psychosocial services and supports to persons with mental illness. [*Website, Westminster House, Inc., www.bhric.org*] Services include: long-term care, scattered site supervised apartments, supported community living, and rent assistance. [*“Resource Directory,” Heartland AEA 11, September 5, 2001*]

¹⁷² Mainstream Living, Inc., in Des Moines, Iowa, provides supported living and supervised apartments for adults with mental illness and mental retardation. [*“Resource Directory,” Heartland AEA 11, September 5, 2001*]

¹⁷³ “Contact Notes,” Beamer, YHMA, February 5, 2001.

Consultant Ann Benzshawel. The team determined, “Reggie is functioning at a 3rd grade level and needs an assessment to consider vocational programming or a special school placement. He will sign an evaluation plan on the 14th when he turns 18 for an academic, intellectual, and adaptive behavior assessment.”¹⁷⁴

In response to the school suspensions on January 26 and February 2, 2001, the team also held a “Manifestation Determination,” on February 7 to determine whether Reggie’s inappropriate behavior was related to his disability. But, according to Burroughs, soon after the meeting began, the purpose changed. Reggie told the team he was currently residing at YESS but would not be able to remain there past February 14, his 18th birthday. Reggie said “he wanted to be in school and did not want the team to kick him out because then, ‘I would be homeless and school-less.’”¹⁷⁵

According to Burroughs, Reggie presented a crisis situation and the team responded with a plan, an assignment of tasks and responsibilities. Hill-Davis would do the assessment. Graziano would call Beamer or Ford to see what was going on and what the school could do to help. And she would find him a place to stay. Burroughs told the Ombudsman, “So that week, I made a lot of phone calls, kind of finding out what the programs were in Des Moines.”

When asked if the team made a determination whether Reggie’s behavior related to his disability, Burroughs told the Ombudsman, “Yes, we did.” She said they found the behavior was a “manifestation of his disability.” She said such a determination does not mean he should not be suspended; it means they need to look at programming, “to see how we could better serve him.”

Reggie’s services were increased to 3.74. Graziano told the Ombudsman most of the students in her self-contained classroom for behaviorally disordered adolescents had IEPs with a weighting of 3.7, “which meant they had little or no integration into the regular ed classroom.”

On February 8, 2001, Beamer picked up Reggie’s specially-fitted shoes from a store in West Des Moines and then collected more of Reggie’s belongings from the ABIL apartment. He delivered the items to Reggie at YESS. According to Beamer, Reggie “understood he is going to Iowa Homeless Youth¹⁷⁶ next and accepts that.”¹⁷⁷

Even though Reggie was no longer in YHMA’s program, Beamer continued to visit and assist. On February 13, 2001, Beamer took Reggie to the foot doctor. He told Reggie to call him later to “make arrangements to move his stuff from YESS.” Beamer noted, “We’re still not sure where he’s going.”¹⁷⁸

¹⁷⁴ “Reevaluation Worksheet,” Des Moines Public Schools, February 7, 2001.

¹⁷⁵ “Student Contact Log,” Burroughs, Des Moines Public Schools, February 7, 2001.

¹⁷⁶ Iowa Homeless Youth Centers (IHYC), in Des Moines, Iowa, is affiliated with Youth & Shelter Services, Inc., a private non-profit organization that offers a broad range of youth and family services, including substance abuse and delinquency prevention programs, as well as transitional and independent living programs. [*Brochure, Iowa Homeless Youth Centers, August 1998*]

¹⁷⁷ “Contact Notes,” Beamer, YHMA, February 8, 2001.

¹⁷⁸ *Ibid.*, February 13, 2001.

Reggie turned 18 on February 14, 2001.

On February 14, Hill-Davis administered the “Woodcock Johnson – Revised”¹⁷⁹ test. Results indicated Reggie was “five years below grade level in math and even lower in reading.” Hill-Davis also administered the Kaufman Brief Intelligence Test on February 14, and Reggie scored “well below average.” According to Hill-Davis, Reggie’s cognitive ability fell in the “borderline range” and met the Iowa guidelines for mental disability.

Ford’s last entry to her “Narrative Continuation,” a chronology of contacts/notes regarding Reggie, reads: “2/14/01 – Reggie reached majority, went to Churches United [an adult shelter]. Closed case.” When asked how the decision was made to close the case on February 14, Ford told the Ombudsman, “I had transitioned it to the adult unit. And because I’m not providing services anymore, I can’t keep the case open. But that doesn’t mean I wasn’t actively involved in the case.” When asked how she remained actively involved, she said she accepted and returned phone calls from Reggie and providers, and she “received the ashes and did the funeral.”

On February 14, before the school day began, Reggie told Burroughs he needed to be out of YESS today. Burroughs told him she would find him a place to stay, and she did. She called Jena Sigler, a Resident Counselor at IHYC, who was able to place Reggie in an emergency bed. “We arranged transportation to pick him up after school.”¹⁸⁰

IHYC Case Manager Diane Martin said Burroughs referred Reggie to IHYC and Beamer dropped him off. Martin told the Ombudsman, “Within minutes of meeting Reggie, I knew we had problems.” She described him as “small in stature, kind of mis-proportioned, very disconnected in his conversation.” She said, “It was obvious that he was low-functioning.”

Martin said she and other IHYC staff realized quickly Reggie would not qualify for their program. She said all they could offer was an emergency bed for “x” number of days. According to Eve Hickman, IHYC’s Services Director, Reggie needed “more intensive help” than what their transitional living program offered. She told the Ombudsman even though Reggie did not meet their criteria for participation in transitional living, her staff “did everything they could” to assist him. IHYC provided twenty-plus days of housing, medical care through their clinics, food from their pantry, hygiene products, clothing, bus passes, and assistance in making applications for Title 19 and food stamps. Reggie stayed off-and-on at IHYC from February 14 to March 12, 2001.

On February 15, 2001, Sigler called Ford to get more information about Reggie. According to Sigler, Ford said her case was closed and Reggie would later be meeting with Polk County DHS employee, John Hoehne, regarding adult services.

¹⁷⁹ On the Woodcock Johnson-Revised, Reggie scored grade level 6.4 in Broad Reading, 3.9 in Passage Comprehension, 8.9 in Letter/Word Identification, 6.5 in Broad Mathematics, 6.8 in Math Reasoning, 6.4 in Calculation, and 6.8 in Applied Problems. According to Hill-Davis, Reggie was “able to word call on a reading test, but clearly is not able to comprehend what he reads. He has basic calculation skills in math but his reasoning and applied skills are delayed ... It should be noted that on the applied problems portion of this assessment, the problems were all read to Reggie. It is doubtful that he could have read and solved the problems independently.” [*Team Assessment Report*,” Deborah A. Hill-Davis, Ed.S. NCSP, Des Moines Public Schools, February 28, 2001]

¹⁸⁰ “Student Contact Log,” Burroughs, Des Moines Public Schools, February 14, 2001.

Ford told the Ombudsman she completed and submitted the one-page, “Polk County Department of Human Services Adult Service Intake/Referral”¹⁸¹ form on January 29, 2001. But the only date written on the Intake/Referral form is “2-15-01.” That date appears near the top of the form, inside a small box containing case assignment information. According to the form, Reggie’s case was assigned to “John” on February 15, 2001. The form also indicates: “Intake completed by: K. Ford,” but the date showing when the intake was completed is blank.

On the form, for Reggie’s address, Ford wrote: “Iowa Homeless Youth, 1219 Buchanan.” At the bottom of the form, in the comments section, Ford also wrote: “Is placed at Iowa Homeless Youth.” When asked to explain how she could complete the form on January 29 with Reggie’s address as IYHC when Reggie did not go to IYHC until February 14, Ford told the Ombudsman, “I don’t know if I knew he was going there. I don’t know if I was waiting for an opening there. I can’t remember.”

Jone Staley, supervisor of the Polk County DHS Adult and Family Services Unit, told the Ombudsman she supervises ten social workers, including John Hoehne. When asked who completed the “Intake/Referral” form, she said she completed the portion inside the box at the top, and assumed Ford completed the rest. She said “2-15-01” is the date she assigned Reggie’s case to Hoehne. She said the form sat on her desk anywhere from one day to two weeks before she made the assignment.

Staley told the Ombudsman she has no recollection of any contact with Ford regarding Reggie before receiving the Intake/Referral form. She said she “may have had a discussion at some point in the hallway but I didn’t write anything down.”

In the box at the top of the form is a place to indicate, “Urgency.” Under the place to check Urgency is: “Explain in comments section.” On the form completed by Ford and Staley for Reggie, “Urgency” is not checked, and nothing in the comments section indicates urgency, other than, perhaps, “Is placed at Iowa Homeless Youth.”

When asked if Reggie’s case was presented as urgent, Staley told the Ombudsman, “It was not presented as such, no.” When asked to explain, she said, “[I]t was not an emergency from the information that I had available to me.” When asked what she knew about IHYC, she said, “Very little because it works with youth and I’m in the adult world.” When asked if she knew how long Reggie would be staying at IHYC, she said she did not know. When asked if she had known Reggie was at an emergency bed at IHYC would she have considered that an emergency, Staley said yes. When asked what she would have done as a result, she said, “When I would have given it to John, I believe on the referral form there is a place marked urgent, or I would have handed it to John and said, “John this person has no place to go after tomorrow, or the next day, or whenever, however long an emergency bed is good for I don’t know that.”

Polk County DHS Adult Worker John Hoehne told the Ombudsman he had no contact with Ford regarding Reggie before February 15.

On February 16, 2001, Hoehne sent a letter to Reggie at IHYC, stating he had scheduled an appointment for Reggie at 2:30 p.m. February 28 – twelve days later – at his office, City View

¹⁸¹ The “Polk County Department of Human Services Adult Service Intake/Referral” form, submitted by Ford on Reggie’s behalf, is in Appendix K.

Plaza, 1200 University, Des Moines. In the letter, Hoehne advised, “I am writing this letter because Karin Ford ... requested that you be assessed for funding for community-based mental health services.”

Staley told the Ombudsman twelve days is not an unusual length of time to wait for an appointment. “As I said, my staff have easily 100 cases, more than 100 and they also have a great number of previously scheduled appointments so 12 days is not an unusual amount of time.” But she also said, “They can sometimes work things in on a more urgent basis, if they’re notified that it’s urgent.”

The purpose of the February 28 appointment, according to Hoehne, was to do an “initial appraisal.” Hoehne told the Ombudsman his first function is to establish eligibility for community-based mental health services, which “basically” involves two elements – attaining an appropriate adult diagnosis and determining legal settlement.

On February 21, 2001, for the second time in less than a month, Reggie brought a knife to school.

According to Vice Principal Adcock, Reggie told Graziano he was sick of two other male students calling him gay. He said he “felt like quitting school or hitting one of them.” He said he had something in his pocket that would get him kicked out of school. He said he wanted to give it to Officer Bruce Bjurstrom because he “felt like he was about to do the worst thing I have ever done.” After giving the knife to Bjurstrom, Reggie said, “[The other student] was lucky I didn’t just pull out the knife and stab him. I could have. I felt like doing that.” According to Adcock, Reggie “expressed increasingly more violent stories of what he could do to those kids who keep harassing him.” Reggie said he “needed to be away from school” and he needed a safe place to stay. He said “if he didn’t have a safe place he would go so far as to commit a crime, even murder someone so that he could go to jail, and have a safe place to stay.”¹⁸²

According to Vice Principal Gail Soesbe, Reggie told her “if he had the knife he would use it on the people in his class as he was angry with them for harassing him.” Soesbe asked Reggie if he had reported the harassment to his teacher, and “he said he hadn’t.”¹⁸³

Burroughs reported Reggie was “upset.” He said he “just wanted a family and that he had a horrible life.” He agreed he needed “some help with his feelings and to deal with past victimizations” so he “signed himself into Broadlawns.”¹⁸⁴

On February 23, 2001, Reggie was admitted to Iowa Lutheran Hospital’s Adolescent Partial Hospitalization Program.¹⁸⁵ His teacher there was Patricia Glassell, an employee of Des Moines

¹⁸² “Recommendation for Consideration of Expulsion, Adcock, Des Moines Public Schools, February 26, 2001.

¹⁸³ “Statement,” Soesbe, Des Moines Public Schools, February 26, 2001.

¹⁸⁴ “Student Contact Log,” Burroughs, Des Moines Public Schools, February 21, 2001.

¹⁸⁵ “Child and Adolescent Behavioral Health Services at Iowa Lutheran, Iowa Methodist and Blank Children’s Hospital offers a continuum of care for children and adolescents (ages 4 to 18) who experience problems at home, school or in the community.” [*Brochure, Child and Adolescent Behavioral Health Services*] “The school program at Iowa Lutheran Hospital is affiliated with the Des Moines Public School District. Each classroom has a full-time, certified special education teacher with a teacher associate available for assistance.” [*Parent Handbook, Adolescent Partial Hospitalization Program, Iowa Health System*] According to Patricia Glassell, Reggie’s teacher at Lutheran

Public Schools. According to Burroughs, Glassell teaches children who “need extensive or additional services through the hospital with mental health issues.” Glassell reported she wrote curriculum for Reggie that was developed after reviewing his IEP. She used materials that were “life based and at his learning level.”¹⁸⁶

On February 28, 2001, Sigler transported Reggie to Hoehne’s office for his “initial appraisal.” According to Hoehne, “While he was in the office, I phoned his psychiatrist, Dr. Dewdney, and left a message on his voice mail, explaining that I needed an Adult diagnosis for Reggie.” Hoehne noted, “Although he reports that he has \$2,000 in savings, Reggie has no income, and is in the process of applying for SSI. He requested placement at the Mainstream Supervised Apartments. I had him sign an Application for Social Services and releases of information ... He is eligible under SSBG income guidelines, but his legal settlement needs to be determined.”¹⁸⁷

On March 2, 2001, a nurse from Lutheran Hospital telephoned Hoehne at Dr. Dewdney’s request and reported Reggie’s Axis I as: PTSD¹⁸⁸ with psychotic features, Major Depressive Disorder,¹⁸⁹ and Reactive Attachment Disorder.¹⁹⁰ The nurse reported Reggie’s Axis II as: Borderline Traits.

Dr. Kerber last met with Reggie on March 2. He told the Ombudsman, “My record indicates that would have been the 41st meeting I would have had with him over that roughly two year period.”

Hospital, the Adolescent Partial Program is a program of Lutheran Hospital, and Des Moines Public Schools places teachers there through its Hospital Home-Bound Program. *[Telephone conversation between Glassell and Assistant Ombudsman Grove, August 22, 2002]*

¹⁸⁶ “Chronology of Involvement with Reggie Kelsey,” Glassell, Des Moines Public Schools.

¹⁸⁷ “Notes,” Hoehne, DHS, February 28, 2001.

¹⁸⁸ “The essential feature of Posttraumatic Stress Disorder is the development of characteristic symptoms following exposure to an extreme traumatic stressor involving direct personal experience of an event that involves actual or threatened death or serious injury, or other threat to one’s physical integrity ... The person’s response to the event must involve intense fear, helplessness, or horror (in children, the response must involve disorganized or agitated behavior).” *[Diagnostic and Statistical Manual of Mental Disorders, 4th ed., Text Revision, American Psychiatric Association, Washington, DC (2000), p. 463]*

¹⁸⁹ “The essential feature of Major Depressive Disorder is a clinical course that is characterized by one or more Major Depressive Episodes ...” *[Diagnostic and Statistical Manual of Mental Disorders, 4th ed., Text Revision, American Psychiatric Association, Washington, DC (2000), p. 369]*

“The essential feature of a Major Depressive Episode is a period of at least 2 weeks during which there is either depressed mood or the loss of interest or pleasure in nearly all activities. In children and adolescents, the mood may be irritable rather than sad. The individual must also experience at least four additional symptoms drawn from a list that includes changes in appetite or weight, sleep, and psychomotor activity; decreased energy; feelings of worthlessness or guilt; difficulty thinking, concentrating, or making decisions; or recurrent thoughts of death or suicidal ideation, plans, or attempts.” *[Diagnostic and Statistical Manual of Mental Disorders, 4th ed., Text Revision, American Psychiatric Association, Washington, DC (2000), p. 349]*

¹⁹⁰ “The essential feature of Reactive Attachment Disorder is markedly disturbed and developmentally inappropriate social relatedness in most contexts that begins before age 5 years and is associated with grossly pathological care. There are two types of presentations. In the Inhibited Type, the child persistently fails to initiate and to respond to most social interactions in a developmentally appropriate way ... In the Disinhibited Type, there is a pattern of diffuse attachments. The child exhibits indiscriminate sociability or a lack of selectivity in the choice of attachment figures.” *[Diagnostic and Statistical Manual of Mental Disorders, 4th ed., Text Revision, American Psychiatric Association, Washington, DC (2000), p. 127-128]*

After meeting with Reggie, Dr. Kerber noted, “Pt reported going to Partial ... Pt stated he expected to go to Mainstream Assisted Living ... Pt reported 5-6 people – big black kids threatening Pt at school – so he takes a knife to feel safe. Pt not certain if getting kicked out...”¹⁹¹

Glassell telephoned Hoehne on March 2 and asked him to attend a staffing for Reggie at Lutheran Hospital on March 6. Hoehne noted Glassell also reported Reggie had a full-scale IQ of 70 based on a recent test. “And that’s when I ... thought I’d try to access those funds too if it was possible.” Hoehne told the Ombudsman until that call from Glassell all he had was a mental health diagnosis for Reggie. He said a mental retardation diagnosis meant “possibly another source of funding” and “[a]nytime you’re working with adults you’re always looking for funding.”

On or about March 2, Glassell “took Reggie to get a photo ID.” She noted “he would be needing one for his SSI hearing and also if a bed became available at YMCA.” On March 5, 2001, Glassell noted, “No bed at YMCA, emergency bed at [IHYC] unavailable, Reggie given directions with Metro [Transit Authority] and tokens to Churches United Shelter.”¹⁹²

According to IHYC’s Street Outreach¹⁹³ Coordinator Howard Matalba, he transported Reggie to Churches United Shelter on March 5. Matalba told the Ombudsman, “I knew the second I saw him that he didn’t stand a chance on the streets, and I told him that repeatedly. ‘You’re not going to make it out here.’ Towards the end of his life, people were beating him up almost daily.”

On March 5, Hoehne made a referral to Golden Circle Behavioral Health¹⁹⁴ for “Targeted Case Management Services.”¹⁹⁵ Hoehne told the Ombudsman, “Typically a person is assigned to me

¹⁹¹ “Progress Notes,” Dr. Kerber, Counseling Centers for Central Iowa, March 2, 2001.

¹⁹² “Chronology of Involvement with Reggie Kelsey,” Glassell, Des Moines Public Schools.

¹⁹³ “Traveling the streets of Des Moines seven days a week, our Street Outreach Program counselors offer information and referrals, crisis counseling, food and clothing, and other support to homeless and chronic runaway youth in our MOHRY (Mobile Outreach to Homeless and Runaway Youth) Van.” [*Brochure, Iowa Homeless Youth Centers, August 1998*] When asked to describe the IHYC Street Outreach Program, Matalba told the Ombudsman, “We work on the streets and through the [MOHRY] van.” He said, “[T]he first thing that we do is try to make contact, try to build a trust relationship ... We provide them with the basic essential needs: food, shelter, clothing, showers ... emergency hygiene products. Make available for them to be able to wash their clothes. We help them try to find jobs. We try to find them a safe place to go.”

¹⁹⁴ Golden Circle Behavioral Health, in Des Moines, Iowa, is a “vertically integrated network” of providers, including Eyerly-Ball Community Mental Health Services, Goodwill Industries of Central Iowa, Iowa Health Systems, Orchard Place/Child Guidance, and Westminster House, Inc. Services include: Capitation Pilot Project, Targeted Case Management, Program of Assertive Community Treatment, and Supported Community Living. [*Website, Behavioral Health Resources, Inc., www.bhrcci.org*]

¹⁹⁵ “Targeted case management is a service designed to help consumers with mental retardation, chronic mental illness or developmental disabilities gain access to appropriate living environments, needed medical services, and interrelated social, vocational, and educational services ... To assure that consumers are receiving the services necessary to meet their needs, each consumer is assigned a targeted case manager.” [*DHS Employees’ Manual, Title 13, Chapter H, “Targeted Case Management Services”, p. 1*]

“To be eligible for targeted case management services, a person must:

to establish their eligibility and to assist them in deciding what services they want, accessing those services and/or referring them on. In the majority of cases my function is to refer people on.”

On March 6, 2001, Beamer withdrew \$30 from Reggie’s checking account for “spending \$\$ -- Iowa Homeless,” leaving a balance of \$563.21. This withdrawal marked the tenth transaction since Beamer and Reggie opened the joint account on January 22, 2001 by depositing \$1,420, the money Reggie had saved from his employment at a movie theatre. Other account transactions through March 29 included checks to Qwest, MidAmerican Energy, and YHMA (for rent), plus regular withdrawals for “spending \$\$. ”

Martin told the Ombudsman Beamer would leave money every week for Reggie and IHYC staff would give Reggie a daily allowance. Reggie would then “go out and buy the big packs of gum and a lighter. Ten minutes later, he would go buy another three big packs of gum. His concept of money, it really demonstrates how he was not ready, or ever probably going to be capable of independent living.”

Glassell, Burroughs, Sigler, Martin, Jodi Steenhoek (Intake Counselor, Golden Circle Behavioral Health), Hill-Davis, Hoehne, Shirley Salz (RN), and Mara Abolins (RN) attended the March 6 staffing for Reggie at Lutheran Hospital.

Martin told the Ombudsman the staffing “didn’t go well.” She said, “It became quite an emotional staffing because Mr. Hoehne just didn’t have a lot to tell us, other than nothing could be done for this boy, even bus money, because the paperwork wasn’t in.” According to Martin, Hoehne blamed Reggie. He called Reggie “noncompliant.” She responded, “He’s not noncompliant. He isn’t capable.” And Hoehne replied, “Same thing.” Martin said they tried to explain Reggie was not capable of filling out the paperwork. They explained Sigler was helping him with his application for SSI. She said Reggie had evidently “missed an appointment, I believe, at his office or the Social Security office” and “we tried to explain that on his own, Reggie probably couldn’t get there.”

Hoehne told the Ombudsman he attended the staffing because he was the person “who had the file open” and he wanted “to see what kind of services we could help with.” He said, “There was a large number of people there. . . . It was to try to work out a plan in terms of develop[ing] a program for him in a coordinated method. Unfortunately, from my point of view, a lot of it was interpellation. They were unhappy with one thing or another.” When asked why they were unhappy, Hoehne said, “They were feeling that, particularly me, that DHS hadn’t done what needed to be done in terms of what was transitioning.” When asked what they expected to be done, he said, “They were just very angry, and I don’t remember the specifics of it. They were just very angry and constantly, you know, being angry, you know. And I kept trying to bring back to center time, to right now.” When asked if an issue came up regarding Reggie’s compliance or noncompliance, Hoehne said, “That was a good example of the problem I was having because . . . the point was . . . Reggie couldn’t do the stuff . . . the point is he didn’t, you

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- Have a primary diagnosis of mental retardation, a developmental disability, or chronic mental illness
 - Have a need for targeted case management services
 - Be eligible for Medicaid or an alternative funding source.”

[DHS Employees’ Manual, Title 13, Chapter H, “Targeted Case Management Services,” p. 8; 441 Iowa Admin. Code section 78.33]

know, so let's deal with that ... Well, he couldn't have. Well, the bottom line is we're here and now."

Steenhoek telephoned Golden Circle Case Management Supervisor Deb Thompson on March 7, 2001, the day after the staffing. Thompson told the Ombudsman, "I was called the next day ... because it appeared to be an emergency case where services needed to get moving very quickly." According to Thompson's "Case Notes," Steenhoek reported Reggie "had aged out of foster care ... had lived in an apartment for a brief time ... was currently homeless and had no services and had nowhere to go." Annie Uetz, Director of Case Management for Golden Circle, also telephoned Thompson on March 7, "with a referral on Reggie Kelsey." Uetz reported Hoehne had "already received the OK from Karen Walters-Crammond [Polk County Health Services, Inc. (PCHS)] for 100% County funded case management."¹⁹⁶

On March 7, Hoehne learned Reggie had legal settlement in Polk County. He "got a copy of a Medicaid application form with MR waiver¹⁹⁷ marked, took it to Golden Circle and left it for Jody [Steenhoek]."¹⁹⁸ Hoehne told the Ombudsman an SSI/MR waiver application is basically "the way to get community-based services" paid for "by Title XIX in situations where the person would not otherwise be eligible."

When Reggie "did not arrive for partial programming" at Lutheran Hospital on March 7, Glassell telephoned Churches United Shelter and was told Reggie did not spend the night there. "He had gone home with someone he met." Later that day, when Reggie called to check in, Glassell "reviewed with him the medication he should be taking and when."¹⁹⁹

With assistance from Glassell, Reggie submitted a claim for SSI on March 8, 2001. As stated in the claim receipt, "We will process your application for Supplemental Security Income as quickly as possible. You should hear from us within 90-120 days."

In a March 9, 2001 telephone conversation, Hoehne told Thompson "he was going to probably transfer the case if Reggie was looking at the MR waiver, because he is an adult MH worker." Thompson told Hoehne, "[I]t could take a while to get the waiver, so [she] was going to try to get him into Westminster in the meantime, so that he would have a safe place to live."²⁰⁰ When asked about this conversation, Hoehne told the Ombudsman, "I'm an MI specialist, okay? I can deal with simple MR issues. But if it gets very specific, I usually have to transfer them over to an MR specialist."

Reggie telephoned Glassell on March 9 and said he got turned around on the bus and "couldn't find his way to Lutheran." Glassell picked him up and brought him back to Lutheran Hospital,

¹⁹⁶ "Case Notes," Thompson, Golden Circle Behavioral Health, March 7, 2001.

¹⁹⁷ "The HCBS (Home and Community-Based Services) waiver is a special Medicaid program overseen by the federal Health Care Financing Administration (HCFA). It allows states to access Medicaid funding for an array of community services for elderly or disabled person who need services previously available only within institutional settings." *[DHS Employees' Manual, Title 16, Chapter K(4), "Mental Retardation Services Waiver," p. 1]*

¹⁹⁸ "Notes," Hoehne, DHS, March 7, 2001.

¹⁹⁹ "Chronology of Involvement with Reggie Kelsey," Glassell, Des Moines Public Schools.

²⁰⁰ "Case Notes," Thompson, Golden Circle Behavioral Health, March 9, 2001.

where he was admitted for the weekend, through March 12, “[d]ue to concerns regarding someone possible slipping him something, his spending the previous night with ‘unsafe’ persons and during a count of his medications, it was found that several of his medications were missing.”²⁰¹

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After meeting with Reggie, Thompson talked with Glassell and Salz. Glassell said Reggie spent the night at Churches United Shelter “but was so terrified that he refused to even go back to get his medications.” Glassell also said, “[T]his morning, he was asking people on the streets to run over him.” According to Thompson, she suggested they “try to get him admitted to the hospital”²⁰³

On March 12, 2001, Thompson telephoned Westminster House Administrator Campfield and scheduled an intake interview for March 13. She then telephoned Salz, who said Lutheran Hospital would be releasing Reggie after lunch and “they have already arranged a bed for him at [IHYC] for tonight.”²⁰⁴

Burroughs told the Ombudsman sometime during the week of March 12 Glassell called her at home and reported Reggie had been beaten up and “they brought him back into the hospital, kind of for a safe place to stay, and that they were going to continue with him staying there for a while, and then staying in the school program there.”

After learning a bed was available at YMCA, Glassell telephoned Hoehne on March 13, 2001 to secure a pay voucher. Glassell was unable to reach Hoehne so she talked with Staley who said she would call YMCA to set it up. Staley asked Glassell to also call YMCA to “let the YMCA workers know about Reggie.” Staley said, “[T]his was something that the case workers do.” Glassell reminded Staley she was not Reggie’s case worker, “but she was going to make the call in order to secure a bed for Reggie.” Glassell took Reggie to YMCA and “stayed with him throughout the check in.”²⁰⁵

Campfield and Thompson met with Reggie at Lutheran Hospital on March 13 to complete “referral papers” and conduct an intake interview. Reggie and Thompson completed an

²⁰¹ “Chronology of Involvement with Reggie Kelsey,” Glassell, Des Moines Public Schools.

²⁰² “Case Notes,” Thompson, Golden Circle Behavioral Health, March 9, 2001.

²⁰³ Ibid.

²⁰⁴ Ibid., March 12, 2001.

²⁰⁵ “Chronology of Involvement with Reggie Kelsey,” Glassell, Des Moines Public Schools.

“Entrance Interview” form and an “Application for Housing at Westminster House II or III.” Campfield noted, “Dr. Donner Dewdney was present and signed all forms needed.”²⁰⁶

Dr. Dewdney signed a “Physician’s Verification of Disability,” -----

On March 13, Salz told Thompson the TB test was not given upon admission, “so one was administered yesterday and can be read tomorrow.” Thompson noted they “arranged for a bed at the YMCA for tonight, and will plan on admitting to Westminster tomorrow after the results of the TB test.”²⁰⁷

On March 14, 2001, Thompson telephoned Lutheran Hospital and was told Reggie’s TB test could not be read until 5:00 p.m., “so he cannot be admitted to Westminster today.” According to Thompson, Lutheran Hospital staff had already arranged for Reggie to stay another night at YMCA.²⁰⁸

On March 14, the support service team at Roosevelt High School reviewed Reggie’s IEP. The team reported, “He no longer wishes to attend school. He has had significant behavior problems at school and has serious mental health concerns that have resulted in inpatient and outpatient services at Lutheran Hospital.”²⁰⁹

The support service team considered two options for Reggie. Option #1 was “SCAVO Alternative School Special Education Program for students with Emotional Disturbance.” Option #2 was “Transition to adult services through Voc. Rehab. and work with DHS towards Mainstream living.” The team rejected Option #1 “as Reggie does not wish to attend school at SCAVO and agrees with the team that he needs a more supervised environment in and out of school at this time.” The team recommended “working collaboratively with DHS to connect Reggie with adult services.”²¹⁰

On March 15, 2001, Thompson met with Lutheran Hospital staff and was given documentation of Reggie’s TB test results, voucher information for the YMCA stay, and the originals of Reggie’s birth certificate and Social Security Card. Thompson and Hospital staff discussed “how often Reggie would be attending Partial from here on out.” She told staff she would arrange cab transportation for Reggie. She explained even though funding for Paratransit had been approved “it would take a few days for the funding to go through.”²¹¹

Reggie was admitted to Westminster House II on March 15.

²⁰⁶ Memo entitled, “Reggie Kelsey,” Campfield, Westminster House, Inc.

²⁰⁷ “Casenotes,” Thompson, Golden Circle Behavioral Health, March 13, 2001.

²⁰⁸ Ibid., March 14, 2001.

²⁰⁹ “Reevaluation Worksheet,” Des Moines Public Schools, March 14, 2001.

²¹⁰ “Parent Notice,” Des Moines Public Schools, March 14, 2001.

²¹¹ “Case Notes,” Thompson, Golden Circle Behavioral Health, March 15, 2001.

On March 28, Thompson met with Burroughs and Glassell “to discuss plans for Reggie.” According to Burroughs, “We discussed that Reggie was now living in the Westminster House and wanted to discuss option for school, Adult Services, or Employment.” They agreed to meet on April 12, 2001 “with all possibilities for school placement, job services, employment and Adult Services.”²¹⁹

According to Thompson, during the March 28 meeting, Burroughs said the school’s support service team was recommending expulsion or optional placement. Burroughs said, “He will not be able to return to Roosevelt, and Ruby Van Meter is not an option, as Reggie does not meet the new criteria for placement there.” Burroughs said there was “a possibility of going to the Boys and Girls Club or the Grubb Y for continuing classes.”

Thompson reported they then discussed “the various options.” Glassell opined Reggie “really needs assistance.” Thompson said she would check “to see what was offered in the community.”²²⁰

On March 28, Reggie told Thompson he needed some clothes, “as he only has two pairs of jeans.” Thompson noted she telephoned Beamer, who stated he could take money to Westminster House, but “he does not feel comfortable giving the money directly to Reggie, as he is afraid he will spend it inappropriately, and not get any clothes.” Thompson told Beamer to give the money to the Program Manager “and they can set up an account for Reggie.”²²¹

Thompson completed her initial “Individual Comprehensive Plan” on March 28. In her “Plan,” she reported, “Reggie is living at Westminster House, Inc., RCF [Residential Care Facility]. This is the least restrictive environment for Reggie at this time, as he does not have the skills necessary to live independently.” She reported Reggie “is interested in the possibility of obtaining a guardian, and this is recommended by this case manager.” She also reported, “If and

²¹⁷ Ibid.

²¹⁸ Ibid., March 28, 2001.

²¹⁹ “Student Contact Log,” Burroughs, Des Moines Public Schools, March 28, 2001.

²²⁰ “Case Notes,” Thompson, Golden Circle Behavioral Health, March 28, 2001.

²²¹ Ibid.

when Reggie is awarded SSI benefits, this case manager would recommend a representative payee, as Reggie does not have the skills to manage his own money to meet his basic needs.”

When asked if she made any effort to identify someone who may want to be a guardian for Reggie, Thompson told the Ombudsman, “Efforts just on my own of calling AMI [Alliance for the Mentally Ill], did they have anybody that would want to volunteer to do this and, you know, checking basically with friends of anybody that might want to do some volunteer work.” When asked if she found anyone, she said, “No.” When asked for the likelihood of finding someone willing to take on the responsibilities, she said, “Well, I think it would have happened at some point. I don’t know when. You know, we have a client we’re working with right now. We’ve been trying for over five months to find a guardian and have not been able to find a volunteer to do that, so I – I don’t know.”

On March 29, 2001, Beamer left money at Westminster House for Reggie. Along with the money, he left a note, which read, “Here’s \$120 to get some clothes for Reggie. Maybe we can meet when you return from vacation to get you his remaining money. Although I’ve known Reggie for over three years now, I’m looking forward to having him out of my hair. Please make sure he spends this wisely. As you can see, he’s blowing through his money rather quickly. Talk to you soon.”

When asked what he was thinking when he wrote, “I’m looking forward to having him out of my hair,” Beamer told the Ombudsman, “I think I was just so overwhelmed at the time that I was looking for some relief.” He said, “I was on the phone upwards of, you know, seven times a day with several different people and trying to figure things out, and I was just really frustrated ... Reggie meant a lot to me. I was just – He took up so much of my time. I had several kids, and he was gobbling up maybe 50 percent of that time, at least between the phone calls and the going to schools and apartment and all the stuff I had to address. I think it was just a sign of frustration on my part.”

On April 5, 2001, Campfield telephoned Thompson and reported she just spoke with Beamer who was really upset because Reggie showed up at YHMA’s ABIL apartments last night, “banging on the windows, stating he was high on crack and he needed money.” Reggie denied sneaking out. Campfield told Thompson she checked outside Reggie’s window and found footprints “leading from the window away from the facility.” Campfield told Thompson she may transfer Reggie to Westminster House III, “where the rooms are high enough off the ground that he would not be able to sneak out of his room.”²²²

Later that day, Reggie was moved to Westminster House III.

On April 9, 2001, staff at Westminster House reported “smelling what appeared to be burned matches in Reggie’s room.” According to Campfield, after finding burned matches in the room, she talked with Reggie and contacted Thompson. “Reggie was put on a cigarette program, meaning he could have no cigarettes, matches, or lighters in room.” Reggie said he wanted to leave “because he was being treated like a five year old.”²²³ Thompson noted Reggie was intent on signing discharge papers because “he has been placed on a restriction to hold his cigarettes.”

²²² “Case Notes,” Thompson, Golden Circle Behavioral Health, April 5, 2001.

²²³ Memo entitled, “Reggie Kelsey,” Campfield, Westminster House, Inc.

He said he was “going to find ----- and stay with him.” Thompson tried to talk Reggie out of leaving, asking him to wait at least for the April 12 staffing, but he refused.²²⁴

Thompson telephoned Salz on April 9 and asked her to call Reggie. Thompson noted, “She agreed to do so, -----

-----.” Salz talked with Reggie, then telephoned Thompson. Salz reported Reggie was “unsure if he is going to stay or leave.” Salz said Reggie complained of being bored at Westminster. Thompson told Salz that Reggie had an opportunity to attend Scavo but he refused. She also told Salz “a referral is going to be made to Easter Seals for some Life Skills classes and Supported Employment services, but those don’t happen overnight.”²²⁵

Reggie later telephoned Thompson and said he was going to stay at Westminster and was “willing to discuss everything” at his staffing on April 12.²²⁶ But later that evening, on April 9, Westminster House staff telephoned Campfield and reported Reggie was leaving again. According to Campfield’s notes, Reggie “signed himself out against the advice of WH [Westminster House], and Dr. Dewdney.”²²⁷

On April 10, 2001, Thompson noted Campfield telephoned her and reported “Reggie had signed discharge papers and left early last evening.” Campfield said “he threw in his backpack what he wanted, and threw everything else away.”²²⁸

Matalba telephoned Thompson on April 10, 2001 and reported Reggie called his staff last evening from Southridge Mall, saying he had “no where to go and no money.” According to Thompson’s notes, Matalba said he picked him up, fed him, and took him to Churches United Shelter. He helped Reggie find -----, “who has been homeless for years.” He said he felt “better about Reggie’s safety as ----- knows all the places he can go for a hot meal etc.”²²⁹

Thompson called Campfield on April 10 and asked if Reggie could return to Westminster. Campfield said “she won’t rule it out completely, but that she would set up treatment plans initially and that Reggie would have to agree to some program plans prior to her making any type of decision.”²³⁰

²²⁴ “Case Notes,” Thompson, Golden Circle Behavioral Health, April 9, 2001.

²²⁵ Ibid.

²²⁶ Ibid.

²²⁷ “Reggie Kelsey,” Campfield, Westminster House, Inc.

²²⁸ “Case Notes,” Thompson, Golden Circle Behavioral Health, April 10, 2001.

²²⁹ Ibid.

²³⁰ Ibid.

return to Westminster. Thompson then talked with Reggie, and noted he understood he had to follow the rules, “but would still like to return.”²³⁷

On April 19, 2001, Thompson telephoned Campfield, who said she would be willing to meet “to talk about him returning.” They scheduled a meeting for April 24. Thompson then telephoned Beebee and asked her to pass along the Westminster meeting information to Reggie. Beebee reported Dr. Dewdney called in prescriptions for Reggie and “she gave him bus tokens to the pharmacy to pick them up, but she has not seen Reggie yet today to know if he got them.” Thompson telephoned Salz and they discussed “the possibility of Reggie returning to partial since he is no longer at Westminster at this time.” -----
-----²³⁸

On April 20, 2001, Beebee telephoned Thompson and reported Dr. Dewdney had not called in the prescriptions. Thompson noted she then telephoned Salz, who said she would “get a hold of Dr. Dewdney, and get those prescriptions called in today.” -----

-----²³⁹

Reggie telephoned Thompson on April 20 and left a message that he needed to be picked up at 12:30 to go to court, “but he did not let me know where he was to be picked up from.” And, according to Thompson, she was “not aware that he had any type of court appearance.”²⁴⁰

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²³⁷ “Case Notes,” Thompson, Golden Circle Behavioral Health, April 18, 2001.

²³⁸ Ibid., April 19, 2001.

²³⁹ Ibid., April 20, 2001.

²⁴⁰ Ibid.

²⁴¹ Ibid., April 23, 2001.

²⁴² Ibid., April 24, 2001.

Reggie told Thompson and Campfield he wanted to get to Westminster today “as he is tired of living on the streets and tired of being beaten up every day -----.” He said the reason he left Westminster the first time was because he was bored, he had nothing to do during the day. Thompson told him she was trying to arrange Supported Employment, “but that it takes time.”

-----.” She said she would get his medications and “would send a cab for him at 2:30 to get him to Westminster.”²⁴³

Reggie was readmitted to Westminster House on April 24.

On April 26, 2001, Thompson telephoned Reggie at Westminster House and told him she needed a release for DVRS. She told him she would come by tomorrow to get his signature. -----

----- Thompson then contacted DVRS and “scheduled the soonest available intake, which was 6/11.” She also contacted Easter Seals, spoke with Brooke Lovelace, who said, “[A]ll of the classes have just begun, and a new round of classes would not be offered until June.”²⁴⁴ -----

Later that day, Reggie told staff at Westminster House he wanted to leave, again. Staff contacted Campfield, who, along with co-worker Jerry Tormey, “tried to talk Reggie out of leaving.” Reggie said he did not want to live there; he liked living on the streets. According to Campfield, Reggie signed the discharge papers, “threw his clothes at the bottom of the hill and left.”²⁴⁵

On April 30, 2001, Reggie telephoned Thompson and told her he left Westminster House because “it just wasn’t the place for him.” Reggie said he needed his birth certificate to prove he was 18. Thompson agreed to mail it to him. -----

----- She also scheduled an appointment with Reggie for later in the week.”²⁴⁶

On April 30, Matalba took medicine to Reggie at Churches United Shelter.

Martin told the Ombudsman she last saw Reggie at the end of April or early-May 2001. She said he showed up, “he absolutely smelled like – you just – you can’t imagine.” She said, “He was even more disconnected. I would guess now he probably hadn’t been taking his prescription meds. He probably was using to some extent. His health was not good. He had the worst deep cough.” She asked him to go to the clinic. “We have a free clinic that comes to the facility. He said he would. I heard that he saw them. He did – was prescribed meds. He did show up later in the day, asked staff to watch his things. He went and had them filled. I believe he showered that day. He ate. We gave him bus money.”

²⁴³ Ibid.

²⁴⁴ Ibid., April 26, 2001.

²⁴⁵ Memo entitled, “Reggie Kelsey,” Campfield, Westminster House, Inc.

²⁴⁶ “Case Notes,” Thompson, Golden Circle Behavioral Health, April 30, 2001.

On May 18, 2001, Thompson called Beebee and left a message asking for a return call.

On May 23, 2001, according to Matalba, Thompson called him and asked, “Have you seen Reggie?” He told her “No” and said he was “starting to get concerned.” He then “told all staff personally to be on the look out for Reggie Kelsey as no one has had any contact with him in quite a while.” Matalba told the Ombudsman, “Even though he was staying with different people, I would still see him periodically on the streets. And there was a period where I just didn’t have any contact with him at all. And knowing what I know from working on the streets, if you don’t see a youth for a while, they’re either in jail, they have gone out of state, or they’re dead, or in the hospital. But even if they’re in the hospital or in jail, they’re still – they still contact me.”

On May 24, 2001, Beebee telephoned Thompson and reported Reggie had not been there “for a couple of weeks.” Beebee said she had not “heard from him or seen him around.”²⁵⁴

On May 25, 2001, Matalba reported he “told staff to consider looking for Reggie an all points bulletin.”²⁵⁵

On May 28, 2001, a body, later identified as Reggie’s, was found in the Des Moines River, located in some debris, between the Waste Water Treatment Plant at 3000 SE Vandalia Drive and the Jim Cownie Sports Complex at 2200 SE Hartford.

According to a Des Moines Police Department Report, “Deceased is an unidentified white male, short in stature, small in build. Body in advanced stages of decomposition. Around neck was a single loop of metal measuring tape. (However, no bruising to strap muscles was observed and hyoid bone was intact.).”

“There was a noticeable like measuring tape located around the neck area ... The body had no underwear on, no trousers of any type, and no shoes on,” according to a “Supplemental Report,” filed by Des Moines Police Officer R. Roth on June 1, 2001.

On May 29, 2001, Deputy State Medical Examiner/Pathologist Dr. Francis Garrity conducted an autopsy. According to Des Moines Police Officer David Ness, in his “Supplemental Report,” also filed June 1, 2001, “Garrity was unable to find evidence of foul play, nor was he able to conclusively determine the cause of death.”

Julie from Social Security Administration telephoned Thompson on May 29 and reported Reggie had been approved for SSI. Julie said Reggie would need a representative payee. Thompson told Julie she had not been able to locate Reggie since May 10. Julie responded they could not distribute the money until Reggie was located.

Thompson then telephoned Matalba, who reported he had not seen Reggie for a few weeks. According to Thompson, she asked Matalba to look for him. Matalba replied he would alert his entire staff.

²⁵³ “Case Notes,” Thompson, Golden Circle Behavioral Health, May 16, 2001.

²⁵⁴ Ibid., May 24, 2001.

²⁵⁵ “Street Outreach Report of Contact with Reggie Kelsey,” Matalba, IHYC, May 25, 2001.

On May 30, 2001, after hearing a radio report of a body being found in the river, Thompson telephoned the Des Moines Police Department. Officer Ness called her back and asked several questions relating to Reggie's appearance. Based on her answers, Ness asked her to come to the police station to view the body photos. "I did go later and informed him that I felt certain this body was Reggie Kelsey." Thompson referred Ness to YHMA to track down Reggie's dental records. "He indicated that he would call me when they had the dental records and could make a positive ID." -----

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On May 31, 2001, Michael Gross, Investigator from the State Medical Examiner's Office, telephoned Thompson. Gross asked her to describe the tattoo on Reggie. He asked for the date she last saw Reggie. He asked her to describe Reggie's clothing on that date. He also asked for any other identifying marks. Thompson told Gross, "Reggie had informed me that he had self-mutilated, and that he had cuts on his penis and arms, but I had not seen these for myself." Later in the day, Gross and Officer Ness telephoned Thompson and left a message that "a positive ID had been made through dental records."²⁵⁷

In his "Autopsy Report," Dr. Garrity reported the following findings:

- 1) Evidence of injury.
 - a) Ligature (measuring tape), tightly encircling neck
 - i) Depressed ligature mark.
- 2) No evidence of other significant injury.
- 3) No evidence of significant natural disease.
- 4) Incidental findings.
 - a) Postmortem decomposition, moderate.
 - i) Anthropophagy (eye, lips).
 - b) Amateur tattoo (five sided open star), back of left forearm.
 - c) Well-healed traumatic scar, left antecubital fossa.

Dr. Garrity opined Reggie "died as the result of asphyxia due to drowning." After noting Gross' investigative findings, particularly the statements made by Thompson, Dr. Garrity reported the manner of death as "Suicide."

²⁵⁶ "Case Notes," Thompson, Golden Circle Behavioral Health, May 30, 2001.

²⁵⁷ Ibid., May 31, 2001.

ANALYSIS AND CONCLUSIONS

Introduction

In reviewing DHS' actions regarding Reggie Kelsey from the date of foster care assignment to the date of referral to adult services, the Ombudsman noted three decisions that significantly affected Reggie's transition from foster care to adulthood and adult services: (1) the decision to move Reggie to apartment-based independent living, (2) the decision not to refer Reggie's case to the Polk County Transition Committee, and (3) the decision not to refer Reggie's case to the Polk County DHS Adult and Family Services Unit until after Reggie failed independent living. The Ombudsman reviewed these decisions in terms of compliance with relevant law, DHS rules and policies, and reasonableness.

Issues

1. Whether DHS violated law or policy in moving Reggie to independent living?
 - a. Whether DHS assessed all available information concerning Reggie's ability to live independently?
 - b. Whether Reggie was "eligible" for independent living?
 - c. Whether DHS adequately planned for Reggie's possible failure at independent living?
2. Whether DHS' decision not to engage the Polk County Transition Committee was unreasonable?
3. Whether DHS' decision not to engage the Adult and Family Services Unit earlier was unreasonable?

Synopsis

After reunification efforts with the adoptive family failed and after Girls and Boys Town and Job Corps rejected Ford's referrals, Reggie's foster care placement goal changed from long-term group care to independent living. On October 2, 2000, Reggie was moved from Ross Cottage to Bracewell Group Home. YHMA and Ford hoped Reggie's stay at Bracewell would help him transition from cottage to his own apartment.

In YHMA's October 9, 2000 "Ross Campus Discharge Summary," Cottage Coordinator Jeff Jansen wrote, "Due to Job Corps not working out, Reggie's focus again was back on independent living. Bracewell should allow him a gradual transition between campus and his own apartment." Ford approved the move. She wrote in her case notes, "This worker supports moving him to Bracewell and preparing him for independent living because it does not appear as though he is going to Job Corps."

Reggie would be turning 18 years old in a few months. At age 18 he could decide to leave YHMA's program and foster care altogether. At 18 he could decide to refuse all services; he could decide to be on his own. Ford told the Ombudsman she believed Reggie would sign on for voluntary foster care after age 18. But she knew, based on experience, she could not count on it.

Not all youths who are eligible sign on. Some say they will, but then at age 18 change their minds. Some sign on, stay for a while, and then leave. DHS cannot force acceptance of voluntary foster care. And even if the youth signs on and stays, voluntary foster care does not last forever. It ends at high school graduation or age 20, whichever occurs first. As Reggie's foster care worker, Ford had to plan accordingly. She had to consider these possibilities.

At age 18 or at the end of voluntary foster care, Reggie could receive adult services through Polk County Health Services, Inc. (PCHS). To qualify for those services, Reggie would need an adult MR or MI diagnosis. Ford told the Ombudsman she believed Reggie's ADHD diagnosis with psychotic features would roll into an adult Psychotic diagnosis, thereby guaranteeing adult services.

In the October 9, 2000 "Ross Campus Discharge Summary," Jansen advised Ford, "Looking into whether or not Reggie qualifies for adult services should be looked into in the coming months due to Reggie turning eighteen in February." In her October 27, 2000 Case Permanency Plan, Ford acknowledged her responsibility. She wrote, "Reggie will turn 18 next February. He has another year of school and will be able to sign himself in voluntarily continuing in placement. This worker believes Reggie will need continuing support as an adult and will pursue a case manager in Adult Services."

The Ombudsman asked Ford, "What adult services was Jansen talking about?" Ford answered, "Getting an adult caseworker, getting a possible adult setting for [Reggie] if he didn't make it in independent living." The Ombudsman then asked, "When Jansen talks about looking into, who was going to do the looking into?" She answered, "That would have been my job."

But Ford did not look into it until February 2001, when she made the referral to the Polk County DHS Adult and Family Services Unit, after Reggie failed YHMA's Apartment Based Independent Living (ABIL) program and had no place to live other than shelters. She told the Ombudsman she did not look into it earlier. She explained, "I knew the services available for children because I'd worked in that unit. So I had some knowledge of whether he would be accepted into the adult unit, would qualify for adult services, and what was available out there. So as far as checking into it, I didn't really have to do that because I understood that, that arena."

Ford also chose not to engage PCHS to secure an adult case manager or to help plan for Reggie's transition into adulthood, into adult services. She acknowledged she could have secured an adult case manager for Reggie provided by PCHS three months before his 18th birthday and she could have taken him out to meet the case manager, but she said, "it has been my experience they'll come out and have them sign on. But they really don't do a whole lot with them particularly if they're in a youth setting or if they already have a social worker. They'll come out and visit with them, but they don't do any planning for them." She told the Ombudsman she did not seek a PCHS case manager "because I thought he was going into independent living, and he was supportive of that. So I thought he'd stay in foster care."

When asked about the Polk County Transition Committee, Ford told the Ombudsman, "When kids are going into adult services, we will let [PCHS] know they're coming down the pike. The reason why I didn't do that with Reggie is because I thought we were set up for services with him. And when I discovered in very short order he was not going to make it in his own apartment, I made referrals to Westminster and to Mainstream, made the referral for adult services and made that approach, did everything I would have been told to do in the transition meeting."

Reggie spent 3½ months at Bracewell, from October 2 to January 15, 2001. Throughout his stay, Reggie's behavior was problematic. It impeded his progress towards his two main goals: (1) Develop skills to effectively identify and cope with his anxieties and (2) Develop independent living skills.

In his "Caselogs," dated October 17, 2000, Jansen noted, "Reggie seems to be getting caught almost daily with something that doesn't belong to him. Verbalizes that this is wrong but claims he can't help it." In his "Group Therapy Report," dated November 7, 2000, Jansen noted, "Reggie has [not] obtained a job yet and he doesn't seem to think it is of great importance that he gets one. He continues to steal from others and consequences mean little to him."

In YHMA's January 18, 2001 "Bracewell Group Home Discharge Summary," Jansen reported, "The time was supposed to allow Reggie a transition period between the structured campus setting and his eventual independent living apartment setting. The goal was to get Reggie out into the community as much as possible to better prepare him for life on his own. Unfortunately, Reggie's behavior restricted him from fully taking advantage of the opportunities that were available to him. During this time Reggie made progress at his established goals, but often they were overshadowed by his relapse of concerning behaviors."

Despite his "concerning behaviors" and lack of progress towards his two main goals, Reggie was moved into his own apartment on January 15, 2001. YHMA recommended the move and Ford approved.

Issue 1: Whether DHS violated law or policy in moving Reggie to independent living?

Conclusion:

The Ombudsman concludes DHS violated law and policy in moving Reggie to independent living without first obtaining and assessing all available information concerning his ability to live independently. DHS also violated law and policy in allowing the foster care worker to make the decision alone, without benefit of supervisory review. As a result, Reggie was moved prematurely. A review of the information available at the time clearly indicates Reggie was not ready for independent living. By DHS' own rules, he was ineligible. The foster care worker overestimated Reggie's ability and, consequently, failed to adequately plan for his possible, even likely, failure at independent living.

Issue 1(a): Whether DHS assessed all available information concerning Reggie's ability to live independently?

Conclusion:

The Ombudsman concludes DHS failed to assess all available information concerning Reggie's ability to live independently before making the decision to move him to his own apartment. This failure is indicated by (1) the varying and inconsistent reasons given by YHMA and DHS staff for the move, (2) the lack of documented information from YHMA to DHS regarding Reggie's progress and readiness for independent living in the nearly seven weeks preceding his move to ABIL, (3) DHS' failure to consult Reggie's school or

special education teacher, (4) DHS' failure to consult Reggie's therapist and psychiatrist, and (5) the timing and questionable value of the Daniel Memorial Assessment for Life Skills.

Before placing a child in an independent living arrangement, DHS rules and policy require DHS workers to assess all available information on the child to determine the child's ability to live independently.²⁵⁸

The Ombudsman believes the decision to move a child from group care to independent living is potentially the most significant decision DHS makes in transitioning a child out of foster care. Success in independent living gives the child a sense of accomplishment and a boost in self-confidence, which makes the transition process easier and more natural. Failure means returning to group care or going to a shelter. It means enduring another setback, another disappointment. It means starting over, and, all too often, for many children, it means leaving or abandoning the system of foster care and adult services altogether. For some, it means living on the streets, without necessary skills or services.

Because the decision is so significant, has so much impact in the transitioning of children out of foster care into adulthood, the Ombudsman believes DHS should make the decision based on all available information. DHS should carefully gather and analyze all available information from all persons who have relevant information regarding the child's ability to live independently. Depending upon the child, sources of relevant information include the child's parents, placement providers, school, employer, and mental health professionals.

(1) The varying and inconsistent reasons given by YHMA and DHS staff for the move.

Based on interviews with Ford and YHMA staff and review of DHS and YHMA records, the Ombudsman finds YHMA and Ford not only had different reasons for moving Reggie to independent living, but their reasons are inconsistent, even contradictory. According to Jansen and YHMA's Treatment Director Gilbert Cervený, YHMA recommended the move to ABIL not because Reggie was ready for his own apartment, not even because he was ready for less structure and supervision. YHMA recommended the move because Reggie was intent on leaving the system at 18 and his 18th birthday was fast approaching. According to Ford, she approved the move not because Reggie was intent on leaving the system but because she believed Reggie was ready for independent living based on assurances from Jansen and Doug Wolfe, YHMA's Director of Community Services.

It is the opinion of the Ombudsman that DHS and YHMA never reached a mutual understanding on why and when Reggie should be moved to apartment-based independent living. Not knowing or understanding YHMA's reasons indicates a failure by DHS to assess all available information held by a key source, the placement and services provider.

²⁵⁸ 441 I.A.C. 202.9 (1) (a) (3); Employees' Manual, Title 18, Chapter F, "Independent Living Foster Care," Rev. 10/22/96, p. 7.

Reggie's Intentions When He Became An Adult

Jansen told the Ombudsman Reggie was admitted to Bracewell because he "had been in the system a long time. He, in his mind, had said, 'When I turn 18, I do not want to be involved with the system any longer. Thank you very much, but I'm done with you.'"

So due to that sort of thinking and, you know, his progression that he shown that he could handle a job, he could do these things, Bracewell was looked into. While at Bracewell he - he had more trouble and more problems, but the big picture we were looking at is coming up in February he turns 18. He's telling us he is going to drop services, and you know, then we knew he would be on his own. So we set with everyone a goal of we'll get him in independent living a month before his birthday, which he went in January 15 of 2001 with the hopes that he would get in the program, like it, find out all the options available to him, and voluntarily sign on at age 18 and reap the benefits of the program.

The Ombudsman asked Jansen what Reggie meant by, "I'm done with you." Jansen replied, "Adult services was - talked too with him and explained that, 'When you turn 18, these are options available to you,' and he was just, 'No, I've been in these treatment places all my life. I want to be finally on my own and be responsible for myself and not have to answer to anybody.' He - He - He verbalized that pretty well that he - he knew his time was coming, and he would finally be rid of everyone."

Jansen said if Reggie had indicated he wanted to sign on for voluntary foster care at age 18, he would have still been moved to Bracewell, but may not have been moved as quickly to ABIL.

In a memo written after Reggie's death to YHMA's Executive Director Ron Stehl, Cervený reported, "Reggie, despite the noted problems, was placed in [ABIL] on January 15, 2001, due to his age." Reggie "was adamant about not wishing to remain in residential services past his eighteen birthday."

Ford, however, had a different perspective on Reggie's intentions after he turned 18 years old. Ford told the Ombudsman when Reggie moved to Bracewell she thought he would sign on for voluntary foster care because "he had a good relationship with the people at Youth Homes and he liked being there, as far as just being in placement." The Ombudsman asked, "Did he say that he was going to sign on?" Ford answered, "Oh, yeah. Yeah, we would talk about what he would do after he turned 18, and I told him that he could stay at Youth Homes until he got his high school diploma, and it wasn't a concern, you know."

The Ombudsman asked Ford if she spoke with YHMA staff about Reggie's intention after age 18. She said she spoke with Reggie and Jansen at YHMA's Christmas party in December 2000. According to Ford, Jansen also thought Reggie was going to sign on.

Adult Psychiatric Diagnosis For Reggie

Jansen told the Ombudsman he recalls that before Reggie's move to independent living, they had "some trouble" getting an adult diagnosis that would qualify Reggie for adult services .

I believe at the time Dr. Nightingale . . . just didn't believe that there was enough there for an adult diagnosis. I believe it was then after he had entered independent

living and some more acting out had occurred that that had been possibly changed.

But when the Ombudsman asked Ford about Dr. Nightingale's change in diagnosis, she said she expected the change; she knew Reggie "would roll into that." She said the change guaranteed adult services.

Q. It [the "Psychiatric Note" signed by Dr. Nightingale on January 29, 2001] also says Dr. Nightingale changed diagnosis from ADHD to Psychotic NOS. What is that?

A. Psychotic disorder not otherwise specified. The ADHD is - although some adults can be diagnosed with ADHD, he would need an adult diagnosis to qualify for adult services. And because he had ADHD with psychotic features, it rolled into the Psychotic Disorder. So a lot of our tags that kids have or psychotic diagnoses will roll into an adult diagnosis but will look the same. But it's an adult diagnosis as opposed to a childhood diagnosis.

Q. Did that affect services for Reggie?

A. Yes.

Q. How?

A. Availability. Axis I diagnosis, they must have one to get adult services. ADHD is kind of pushing the envelope. You have to have that coupled with other things. But the Psychotic Disorder was going to guarantee services.

Q. Up until that time, there was no guarantee?

A. I knew he would roll into that. I knew that's what would happen.

Unlike Jansen, Ford told the Ombudsman she did not have a concern about Reggie obtaining an adult diagnosis. She "assumed that he would have an Axis I diagnosis because of his behaviors."

Q. Were you concerned that he may not get an adult diagnosis?

A. He had an MR - a mild MR - no, I wasn't concerned.

Q. Did you talk with Dr. Nightingale about getting an adult diagnosis for Reggie?

A. I don't remember. I could have.

Q. Do you know if Dr. Nightingale had any reservations about giving Reggie an adult diagnosis?

A. No.

Recommendation/Decision To Move Reggie to ABIL

Ford submitted her last Case Permanency Plan for Reggie to the juvenile court on October 27, 2000.²⁵⁹ In it she reported Reggie was moved to Bracewell and “will continue to work on developing effect [sic] coping skills, appropriate communication skills and independent living skills.” She also reported she did not expect Reggie to move to ABIL for another year.

It is unlikely that Reggie will move into his own apartment for another year. Reggie will turn 18 next February. He has another year of school and will be able to sign himself in voluntarily continuing in placement.

According to Jansen, YHMA’s file on Reggie does not contain Ford’s October 27, 2000 Case Permanency Plan. He said generally DHS youth workers send plans to YHMA. He said he does not remember reading the October 2000 plan nor any plan containing the statement, “It is unlikely that Reggie will move into his own apartment for another year.”

In the November 29, 2000 “Bracewell Quarterly Progress Report” to Ford, YHMA staff advised, “Reggie needs to be in the YHMA’s independent living program before he turns eighteen on 2-14-01.” It also stated:

Reggie will be much more motivated to sign on and stay if he is already in the program he is working toward. A transition date of mid-January is being looked at.

The January 18, 2001 “Bracewell Group Home Discharge Summary” gives YHMA’s reasons for Reggie’s discharge from Bracewell, as well as their recommendations for future services.

Reggie was discharged on 1-15-01 to enter YHMA’s independent living program. This date was chosen because it was thought that Reggie needed to be in the program before his eighteenth birthday so that he knew what the program had to offer him and in hopes that he would voluntarily sign on before his birthday. . . . It would be recommended that Reggie continue to work toward his high school diploma and obtain employment. Reggie should also continue to follow-up with Dr. Jeff Kerber for his individual sessions. . . . Continuing to look into the possibility of Reggie qualifying for adult services should also remain a priority.

Jansen told the Ombudsman Reggie was moved to ABIL so he could at least pick up some independent living skills before age 18, before he left the system. According to Jansen, Reggie was also moved in the hopes he would like ABIL and would sign on for voluntary foster care after age 18.

Ford told the Ombudsman even though she agreed with YHMA’s recommendation, she had reservations, as she does with all of her kids because she thinks they need more supervision.

When asked to explain how she went from stating “It is unlikely that Reggie will move into his own apartment for another year” in her October 2000 Case Permanency Plan to the decision to move Reggie into his own apartment in mid-January 2001, a little over two months later, Ford

²⁵⁹ See Appendix O.

told the Ombudsman, “That was a decision that the providers made, that they felt that he could move into an apartment and that he was ready for that.”

In response to the question why she did not question the move or stop it, Ford replied:

In hindsight that would have been the better role to take. I work with these facilities on very intimate settings. And when you ask them, you know, can this kid make it, there's a huge trust factor also. And should I have done it? Should I have let him move into his own apartment? Now no. Did I trust them when they told me they thought he could make it? Yes.

Ford said Wolfe and Jansen were the persons who told her that Reggie could make it in independent living. She said she did not consult with Cerveny, Beamer, Dr. Kerber or Dr. Nightingale.

Wolfe told the Ombudsman he did not participate in the decision to move Reggie to ABIL. He said he was not involved with Reggie until after Reggie entered the independent living program.

The Ombudsman asked Ford, “What did you think his odds of succeeding in that [ABIL] movement to be?” Ford replied:

I thought he would follow staff instruction. I thought he would be scared, but I thought he would make it because I thought he was a little bit more resilient than that. I didn't think he'd fail so miserably, fast and furious. I figured at a certain point he would go into an adult setting, but I didn't think he would deteriorate as quickly as he did. And I didn't think he would reject those around him that he wanted to care for him, me included. I didn't think he would reject people like he did, but he did, and that's what surprised me the most.

When asked if she thought Reggie could handle ABIL better than Bracewell, Ford said, “He had a lot of conflicts with some of the boys in the group home. And maybe the idea was that he wouldn't be around them.”

When asked about Jansen's January 18 "Bracewell Group Home Discharge Summary" and why it was important for Reggie to get into ABIL before his 18th birthday, Ford told the Ombudsman, “I think the idea was to hook him into the program to make sure he signed in. I wanted him to sign in.”

However, Ford acknowledged Reggie did not need to move to independent living in order to sign on for voluntary foster care past his 18th birthday.

Q. But he could have signed on even at Bracewell, couldn't he have?

A. Right.

Q. I still don't get why this independent program, why that was important before he's eighteen.

A. I can't answer what - I can't answer to that why they wanted him in there before eighteen. I think it was just to provide that sense of, you know, you still have to follow the rules, that sort of thing.

Q. But he talks earlier, Jansen talks earlier, about Reggie not getting or receiving all the opportunities because of his behaviors, whatever. How do you make sense out of that?

A. Well, it wouldn't make sense, it would appear as though they were overlooking his negative behaviors and placing him anyway.

(2) The lack of documented information regarding Reggie's progress and readiness for independent living in the nearly seven weeks preceding his move to ABIL.

The Ombudsman finds the lack of a report from YHMA covering Reggie's entire stay and progress at Bracewell Group Home before his move to ABIL precluded DHS from assessing all available information regarding Reggie's ability to live independently. The only document that contained information about Reggie's last seven weeks at Bracewell is a discharge summary received by DHS a week after his move. In no other document is that time period covered. Ford's case notes include little information regarding what was happening with Reggie during that seven-week period. An updated or final report, nearer in time to the planned move, about Reggie's progress and readiness for independent living, would have provided valuable information on which to base decision regarding Reggie's ability to live independently.

Ford documented two contacts with YHMA staff from October 2, 2000, when Reggie entered Bracewell Group Home, to January 15, 2001, when Reggie entered ABIL. According to her "Narrative Continuation," she called Jansen on October 17 and told him Reggie was rejected by Job Corps. She noted, "Will begin transition into Independent Living." Her notes indicate Jansen called her on November 29 and reported "Reggie was caught stealing."

Ford told the Ombudsman she may not have documented all her contacts regarding Reggie in her "Narrative Continuation."

He [Reggie] may have called me just to visit. I may have called him just to visit. I may have missed a face-to-face visit. I may not have included a staffing. I may not have included when I called the attorney to update her on his case. I may not have included when I talked to the staff about his progress or lack thereof.

According to DHS Manual, treatment providers must submit progress reports every 90 calendar days after initiating services. Providers must also submit discharge summaries that identify (1) the reason for discharge, (2) the date of discharge, (3) the recommended action or referrals upon discharge, (4) treatment progress, and (5) the outcomes of service. DHS Manual also states, "Providers shall provide additional reports if requested by the referral worker."²⁶⁰

From October 2, 2000, YHMA submitted two reports to DHS, the October 9 "Ross Campus Discharge Summary" and the November 29 Bracewell Quarterly Progress Report."

²⁶⁰ DHS Manual XIIX – A – 118 (Revised September 26, 2000)

In the October 9 “Ross Campus Discharge Summary,” Jansen noted Reggie was discharged on October 2 to enter Bracewell Group Home and “to prepare himself for independent living in the near future.”

In the November 29 “Bracewell Quarterly Progress Report,” Jansen noted, “Reggie is currently on the lowest level and he is having daily struggles with acting out his anxieties through self-destructive behaviors and thoughts.” According to Jansen, Reggie had two been working on two main goals: (1) Develop skills to identify and cope with his anxieties and (2) Develop independent living skills. The report stated, “A transition date of mid-January is being looked at currently.”

After the November 29 progress report, there was also almost seven weeks before the planned mid-January 2001 move to ABIL. During that time period, Ford did not receive nor did she request any additional written reports from YHMA concerning Reggie’s progress or readiness for independent living. Nor does her “Narrative Continuation” contains any documentation of any conversations with YHMA staff on this subject.

The information that most completely covered Reggie’s overall progress during his stay at Bracewell is contained in YHMA’s January 18, 2001 report entitled “Bracewell Group Home Discharge Summary.” But, Ford did not see this report until after Reggie had moved to ABIL. By the time DHS received this report, Reggie had been living in his own apartment for more than a week.

Both the November 29 progress report and the January 19 discharge summary indicated Reggie made little, if any, progress towards his two main treatment goals. While the November 29 report offered some hope that progress could still be made while at Bracewell, the January 18 discharge summary suggests the desired progress did not occur. In particular, the discharge summary noted that, throughout his stay, Reggie continued to steal and never obtained employment. It said, “As Reggie’s discharge date into independent living approached, Reggie became much more anxious about being alone ... he also increased his amount of ineffective coping strategies.

The Ombudsman asked Mary Nelson, DHS’ Administrator of the Division of Behavioral Developmental and Protective Services for Family, Adults, and Children, and Vern Armstrong, DHS’ Chief of the Bureau of Protective Services, the following question about discharge summaries from providers: “If the worker is charged with assessing all relevant information, all available information, is it possible to do that when you don’t get the discharge summary until after the child is moved?”

Armstrong answered, “Well, he’s [not] discharged until he’s moved, so how do you do the discharge summary before that?” Armstrong added:

I guess what I’m trying to point out is, a discharge summary is the summary after the child has already been discharged. And how I interpret your question is, how does the worker have all the information to truly make the decision whether they should be discharged and moved? They should rely on prior reports up to then and contacts they have had with the provider up until that time, recommendations from the provider. In other words –

Nelson interjected, “The idea of your discharge summary, it is your financial report of the placement. And you couldn’t possibly do that before you know when the child is being

discharged.” Armstrong added, “Or actually discharged. You should base your decision on whether the child should be moved or not based on your conversations that you are having with the provider.”

The Ombudsman then asked, “Should those be documented?” “Yes,” Armstrong answered. “We should have our conversations documented in our record.” Nelson told the Ombudsman those contacts should be documented in the case record, called the “Narrative Continuation.”

The Ombudsman asked Nelson if she saw any value in having a separate recommendation from the provider.

A. You’re saying, like, a separate – a written recommendation?

Q. Where the child is at, their reasons for thinking why the child is ready or has the capacity to go into independent living.

A. Yes. I could see some value in that.

(3) DHS’ failure to consult Reggie’s school or special education teacher.

The Ombudsman finds DHS failed to consult Reggie’s school or special education teacher regarding Reggie’s readiness or capacity for independent living. Had DHS contacted the school and questioned school staff regarding Reggie’s functional and adaptive behavioral skills, DHS would have gained valuable information and insight into Reggie’s ability to live independently.

The school could have provided information regarding Reggie’s behavioral patterns in non-supervised situations, his ability to make decisions and problem-solve on a day-to-day basis, his work habits and attendance at school, how he related and interacted with others, and how he took care of himself and kept himself safe.

The contact would have also given the school valuable information which could have been used to plan/develop educational experiences and opportunities to better prepare Reggie for independent living. DHS could have provided information regarding placements and dates it considered, as well as an assessment of Reggie’s present independent living-related educational strengths and weaknesses. DHS could have also provided ideas on how the school could have assisted Reggie in preparing for his independent living experience.

According to DHS Manual, “When special education needs are identified, the worker shall ... [p]articipate in staffings with the local and area education agency to discuss needs of the child, including both educational and foster care arrangements.”²⁶¹

When asked how the school could contribute in the assessment process, Nelson told the Ombudsman, “The school sees the youth a portion of their day, so they have a different perspective or a perspective on how the youth is functioning.”

²⁶¹ DHS Manual XIII – J – 24

Perspectives from Heartland AEA 11

The Ombudsman asked Marlys Jordan, Agency Liaison for Heartland AEA 11 if the decision to move a child to independent living related to the transition planning component in the child's IEP. She answered, "Well, it would relate. . . . If the youngster moved to a different environment, then the next IEP team would review that information and determine it's very well relevant and continue to follow, perhaps, some of those recommendations, or if they felt there needed to be some changes in that." She explained:

We would be looking more at the educational component. If the youngster is under the custody or care of Juvenile Court or DHS, those individuals would be making decisions on where the youngster lives or will be living. We can equip parents and students with information and help make some linkages, but generally the agency that's paying for the residential component makes those decisions.

And we usually - If asked to give input, we will, but we usually don't have a lot to say in determining where a youngster would live, if they're involved with the court.

Sharon Kurns, Supervisor of Instructional Services for Heartland AEA 11, added:

I guess even though we don't have - the decision is not ours, but the impact I think it has on the student in the development of the student's IEP is that first step we look at. . . . What are the student's long-reach outcomes? And getting that information from the parent or student, whoever is involved, is a real important piece, important step to the development of the IEP. If that student is going from a group home to an independent living situation and their long-term goal is to live independently, what the school setting would need to do is would be to look at: What kind of educational opportunities do we need to make available to this student to prepare them for this long-range outcome to prepare them for independent living, and look at what kinds of courses they're taking, and what they need to have. Do they have the daily living skills to care for themselves and so forth, or does that need to become part of their educational program?

When asked if the IEP team or the school is notified before the decision to move a child into independent living is made, Jordan replied, "It varies." Jordan explained:

There are times when that may be known because the DHS worker or even the parent or one of the stakeholders would be involved in the IEP process, and that might be brought to the table; that the ultimate plan for this youngster may be reunification back to the parents' home, or there may not be a home for the youngster to go back to. So it might be brought to the table that the intent might be to plan for independent living to see how the youngster's doing, and then you can integrate that. But, gee, I don't know how often that happens, to be quite honest.

The Ombudsman asked if there would be any benefit in DHS seeking input from the IEP team before a child is moved into independent living. Jordan responded:

To me, I think the benefit would be the integration of the needs of that youth and a greater match between the student, as he progresses into adulthood, and what

that youngster is working on in the school setting. . . . I just think sometimes we need to integrate. There's a lot of wonderful things that are happening in different agencies, but I think that with that integration you could work more collaboratively on the goals of that youngster. Also, I think you could avoid some duplication, because we have a tremendous wealth of information within the educational arena, and I'm not sure how often that's accessed in other arenas by other individuals in their planning. So with that kind of integration, you are matching the systems and then the needs of those youngsters, and I think you're going to get better outcomes for the youth.

Kurns agreed. "That would be my opinion, that increased collaboration and sharing of communication between all the parties could only strengthen and make it a better process. I think that IEP teams could plan better for students' future if they had clear direction as to where that student may be going."

The Ombudsman asked, "Could the IEP team contribute, as far as helping the placement provider, DHS, forecast or predict whether the child is going to make it in independent living?" Jordan responded, "I think, yes, in some ways, because we would have very functional information on how a student may be able to perform, if a student is expected to go to work and pay their own rent. . . . [W]e would be able to share information on areas of strength and then areas of weakness that could make a difference, I believe, in that independent living setting or any setting, as a matter of fact.

Perspectives From Des Moines Public Schools

Frances Graziano, Reggie's Special Education Teacher at Roosevelt High School, told the Ombudsman in her eight years as a special education teacher and IEP case manager, neither the placement provider nor the DHS foster care worker has ever consulted her about a particular student's readiness for independent living. She told the Ombudsman she guessed she had five students who moved from group home to independent living per year.

Roosevelt High School Social Worker Emily Burroughs told the Ombudsman it would be beneficial for DHS or the provider to contact the school before a child is moved to independent living. She said, "We would definitely do whatever we could to address concerns or however we could be helpful with that." When asked how they could be helpful, Burroughs told the Ombudsman they know the students - - they see them eight hours a day; they can review the IEP, and they can look for behavior patterns, which she believes would be useful information.

Lynda O'Meara, Des Moines Public Schools' Liaison to DHS and PCHS, said she believed most of the time schools are made aware of DHS' decisions to move children into independent living, either by the foster care worker or the independent living coordinator, or sometimes by the child. However, she believed there is a concern in some individual cases about the school not being consulted. When asked if Des Moines Public Schools should be consulted every time before the decision is made to move a child from foster group home to independent living, O'Meara answered, "Absolutely, yes."

Q. For all children?

A. Yes.

Q. Why?

A. Because the school has information about how the child functions on a daily basis in the real world with real responsibilities, and I think that sometimes [DHS] looks at placement, looks at independent living in particular because they have no other options....I believe schools -- particularly when it comes to independent living -- should be consulted.... [I]t would really help in setting up some type of services beyond independent living.

The Ombudsman asked, "Who should be consulted?" Ellen McGinnis-Smith, Deputy Director of Student and Family Services for Des Moines Public Schools said, "It's useful to have a team of people where - for example, the school counselor who has worked with that, the vice principal, a teacher, because you want to look at all aspects." O'Meara added the team "could be made up of the counselor and the teacher, as well as psychologist, social worker, consultant."

When asked what information the schools could provide if consulted, McGinnis-Smith said they could share information concerning the child's adaptive behavior skills, as well as the child's ability to make decisions and problem-solve. She stated:

One is their ability to make decisions and judgment on day-to-day problem solving is something that we really do in the schools try to observe; for example, when a situation arises, how do they handle it, how do they address it, is it in a way that keeps themselves safe, is it in a way that keeps others safe. Some of the adaptive behavior skills as far as can they care of themselves, you know, physically; can they prepare - you know, we may know, especially for some of the more severely-involved kids, can they wash their own clothing, can they do those independent-living-type skills, prevocational-type skills, work habits, attendance, being on time, those types of things that would lend themselves to evaluating independent living.

Information From Reggie's DHS Worker and YHMA Cottage Coordinator

When asked how much contact she has with the child's school or AEA, Ford told the Ombudsman, "Not a lot. We have contact with them when the child is acting out, and they don't want them in the school. . . . The school piece we're not really that involved in; not to say we shouldn't be, but historically, no, we're not."

Jansen told the Ombudsman YHMA staff informs the schools when a child is moved to independent living, "so they know what to expect if there were some problems." However, he was not aware of YHMA staff consulting with the schools before the decision is made to move the child. When asked if schools should be consulted before the decision is made, Jansen told the Ombudsman he saw no reason to call them up and ask for their approval. He said, however, prior feedback from the schools regarding how the child is doing would be considered in making the decision.

The Ombudsman asked Ford, "Before making the decision to move Reggie from Bracewell to ABIL, did you consult anybody at the schools?" Ford answered, "No."

Q. Why?

A. We don't consult with the schools about placement.

Q. How come?

A. I guess I don't know how to answer that other than they're not placement providers and we work with them on an educational component but not on a -

Q. Is there any information the school might have that might be useful in making the decision whether Reggie was ready to move to ABIL?

A. I don't know.

Ford further explained:

[W]e have a very poor relationship with the Des Moines Public Schools. . . . I think it's just an overall societal backlash of all the aggressive kids and all the things that are going on, and they want to point fingers and blame, and they're just as concerned about a school shooting as we are having an irate parent come in and shoot us. . . . You know, they want it to be back in the olden days when students brought apples to school, not guns. And they're as frustrated with their setting and system and lack of money and support as we are, and instead of embracing what we have, they try and get rid of a lot of kids. Their answer to most of their problems to us is to place kids if they're truant, and I don't think they understand what we do either. We can't place kids just because they don't want to go to school, and they take that as very offensive. And by that route we just clash. We're not responding to what they want.

(4) DHS' failure to consult Reggie's therapist or psychiatrist.

The Ombudsman finds DHS did not consult with Reggie's therapist or psychiatrist regarding Reggie's ability to live independently. Neither Dr. Kerber nor Dr. Nightingale submitted reports to DHS regarding Reggie, his progress towards treatment goals or his readiness for independent living. Dr. Kerber regularly, but informally, communicated with YHMA staff regarding Reggie, how he was doing, how he was progressing. But, Dr. Kerber was never asked by YHMA staff nor Ford to prepare any kind of formal or written report.

The DHS practice of receiving information from mental health professionals funneled or relayed through YHMA, the placement provider, is inefficient and ineffective. The information DHS received indirectly from Drs. Kerber and Nightingale was incomplete. The information did not adequately address Reggie's needs, strengths, and resources, especially his ability to manage in his own apartment. In neither the November 29, 2000 nor the January 18, 2001 report did YHMA staff indicate how Drs. Kerber and Nightingale felt about Reggie's move to ABIL - - whether they believed Reggie could be expected to manage life on his own, whether he had the decision-making ability and the motivation to be successful at independent living.

The Ombudsman asked Nelson if there were any value in consulting the child's therapist or psychiatrist before making the decision to move the child to independent living. "Yes," Nelson answered. However, Nelson suggested there would be less need to do so if a provider has subcontracted with the therapist or psychiatrist, because DHS would expect the provider's "input would reflect that subcontract as well as their own direct experience."

The Ombudsman asked child psychiatrist Dr. Donner Dewdney if it would be appropriate for the social worker to consult with the therapist before making the decision to move a child to independent living. “Of course,” answered Dr. Dewdney. “And my experience with our social workers generally is that they do so very readily and – and frequently in that whole process of making the decision about independent living.”

The Ombudsman asked Dr. Dewdney what questions he would expect social workers to ask therapists. Dr. Dewdney answered, “[F]irst of all, do an evaluation of this patient’s mental status, give me a sense of his ego strength.”

In other words, if he has a history of emotional problems, to what extent are they currently interfering with his decision-making ability? Give me some sense of his value system, is he able to be responsible or at least directable around decision-making. . . . And finally does he have – evaluate his motivation for me, please. Do you think that this adolescent is really motivated, or is this, you know, to some extent an avoidant transition for him? Is he trying to escape from something and this and et cetera, et cetera. These are some of the questions I would suggest need to be asked.

Communications by or with Reggie’s Therapist or Psychiatrist

The Ombudsman asked Dr. Kerber how he communicated with YHMA staff regarding Reggie’s treatment and progress. Dr. Kerber said YHMA staff often would sit in on counseling sessions with Reggie. He believed he “sat in at least one staffing” concerning Reggie.

Dr. Kerber said he would occasionally bump into Reggie at the YHMA campus. He said those informal contacts would sometimes “provide an opportunity for [him] and one of the counselors to just have a quick discussion about how things were going.”

Dr. Kerber said he did not file progress reports nor any other written reports with YHMA staff. He said “they never requested anything of those kinds of reports” He also said he did not routinely share his “Progress Notes” with YHMA staff; although he would have “verbally discussed the relevant content from those notes with staff.”

When asked if YHMA staff consult with him before making a decision to move a child from one placement to another, Dr. Kerber answered, “Generally, I would say yes.” Dr. Kerber did not recall if he was consulted before Reggie was moved from Bracewell to ABIL, saying there was “no formal on-paper request or anything of that nature.”

Ford told the Ombudsman she did not consult with Dr. Kerber or Dr. Nightingale before making the decision to move Reggie to ABIL. When asked if she should have consulted with them, Ford replied, “It would have been appropriate to have a team meeting; now looking back, yeah.”

²⁶² Donner Dewdney, M.D., is the medical director at Orchard Place, the chief of psychiatry at Iowa Lutheran Hospital, and the director of inpatient child and adolescent mental health services for Iowa Health Systems.

Q. What kinds of questions would you have asked either one of them?

A. I would have asked for their input because they saw him at a different level than we did. Reggie would confide in Dr. Kerber about things that he wouldn't talk to us about. And there within lies the dark side that if we don't know about it.

Q. So you would have asked Dr. Kerber - and I don't want to put words in your mouth, so make sure this is right. I'm hearing that you might have asked Dr. Kerber about his sexual acting out, would it get worse, do you think it would get worse if he would go to ABIL.

A. Probably.

Q. Any other questions you might ask Dr. Kerber?

A. Probably I would have asked him what are the odds that Reggie would try and find his mother.

Q. Why would you ask that?

A. Because in the beginning that's all he wanted. He would mention that a lot. He just wanted to see his mother. And oftentimes he would want to write to her, and we would talk about that, about how that was painful for him, and we'd talk about what he thought - what resolve he felt that was going to bring him. And I think in some ways he was just hoping that she would give him a second chance. He wanted her to see how well he was doing.

Q. If Dr. Kerber would have said, "Yeah, I think he might try to contact her," then what would that mean as far as your decision to put him into ABIL?

A. I would be concerned that he would just take off and go to Colorado trying to find her. And then he would be, you know, lost, in my eyes. He'd be in Colorado, and I would be concerned about his well-being.

The Ombudsman asked Ford if she would have questioned Dr. Kerber about Reggie's stealing. She responded, "I think we understood that piece of it because that was so very obvious."

Q. Did you think that after Reggie moved to ABIL he would steal less or more or the same?

A. Probably the same. I thought that was going to be part of his personality. That was a coping thing for him.

The Ombudsman asked Ford what questions she would have asked Dr. Nightingale. She replied, "I would ask him if he felt as though Reggie could medicate on his own, if he understood his medications. I don't even recall if he was even on medications at that time. And if he felt that Reggie would continue in therapy."

Had DHS communicated with Dr. Kerber, directly or formally through more structured and complete reports, DHS may have learned things about Reggie they did not know. For example, DHS may have learned about the counseling session on November 13, 2000 when Reggie

reported “lots of stealing,” “not sure why stealing,” and “feels stealing is compulsive.” DHS may have learned about the session on December 1 when Reggie reported he was “feeling persecuted by peers,” “peers hitting him” and “he wants to blow up – frustrated.” DHS may have learned about the session on December 18, when Reggie reported he was caught stealing at Walden Books and “his urge to steal is getting bad.” And DHS may have learned about the session on January 5, 2001 when Reggie produced a Swiss Army knife and reported he was “often angry at school peers but [had no] thoughts of hurting them.”

(5) The timing and the questionable value of the Daniel Memorial Assessment for Life Skills.

The Ombudsman finds DHS’ use of the Daniel Memorial Assessment for Life Skills provided little or no useful information to Ford regarding Reggie’s ability to live independently. Ford received only Reggie’s scores on the test. She received no information regarding Reggie’s specific knowledge or skills.

The Ombudsman also finds the Assessment test was administered to Reggie just once when he was 16.8 years old, when he was still in the running for Girls and Boys Town, before independent living became his permanency goal. The Ombudsman believes a closer in time, second or even alternative test would have been helpful in the overall assessment process, to compare scores and assess Reggie’s current knowledge and skills.

Iowa Code section 232.2(4)(f) provides: “When a child is sixteen years of age or older, a written plan of services which, based upon an assessment of the child’s needs, would assist the child in preparing for the transition from foster care to independent living.”

According to DHS Manual, “Youth must have a life skills assessment completed before entering [independent living] foster care placement. This assessment may be done by the transition planning specialist (TPS) or the case manager.”²⁶³

Assessment Completed on Reggie

On December 7, 1999, when Reggie was 16.8 years old, DHS Transition Planning Specialist Dan Myers interviewed him at YHMA for the purpose of formulating an independent living life skills assessment. Myers told the Ombudsman that Reggie’s counselor at YHMA, Katie Lacy, requested the assessment. He said he assumed Ford decided to do her own assessment.

In addition to the interview, Myers gave Reggie the long form of the Daniel Memorial Assessment and instructed him to complete and return it at the end of the week.

In a December 8, 1999 memo to Lacy and Ford, Myers noted Reggie was planning on going to Girls and Boys Town in January 2000, and would be graduating high school at age 19.2, which left “some options open for voluntary foster care on his 18th birthday.” He noted Reggie’s present intent was to leave the system at age 18. Myers recommended Lacy and Ford prepare Reggie for the decision, “whether he goes into voluntary foster care when he turns 18 years old, or just graduates out of the foster care system.”

²⁶³ DHS Manual XIIX – F – 1

Out of 231 questions on the long form of the Daniel Memorial Assessment, Reggie scored 143 correct, for an “Average Level of 2.9,” which is between “2-Intermediate” and “3-Adequate.”

Reggie scored “4-Exceptional” in food management, personal appearance, housekeeping, transportation, job maintenance skills, and leisure activities. He scored “3-Adequate” in health, education planning, job seeking skills, and community resources. He scored “2-Intermediate” in money management, emergency/safety, interpersonal skills, legal skills, and housing.

Myers told the Ombudsman that Reggie “did about average for a lot of the kids.” When asked if Reggie’s 2.9 average score indicated he was capable of living independently, Myers told the Ombudsman “he did adequately enough on enough subjects, yeah, he’d probably be alright.”

Use of “Daniel Memorial Assessment of Life Skills”

Holli Noble, DHS’ Transition Planning Independent Living Program Manager, told the Ombudsman DHS began using the Daniel Memorial assessment tool statewide about ten years ago. She said transition planning specialists are free to use or not use the Daniel Memorial assessment tool; it is not mandated by rule or manual. She said each transition planning specialist has his or her own set or “bag” of assessment tools.

Noble told the Ombudsman the transition planning specialist will ask the child to complete the Daniel Memorial test and return it. Noble said they have a computer software program that grades the test and, based on the child’s wrong answers, will “kick out strategies and goals” to work with the child.

Myers explained when he keys the test scores into his computer, the computer generates information which tells the child what he/she needs to work on. Myers calls the computer-generated information a “workbook.” He said he delivers the workbook to the child, but not to the counselor or worker

When asked what she made of the Daniel Memorial Assessment findings, Ford said, “That he could do some things and that he kind of needed work on other things. He looked pretty good in self-care and job, job seeking. But he needed some work in some areas.” She told the Ombudsman she found the findings accurate.

Ford said the results did not tell her the specific things Reggie needed to work on.

I would have gotten the assessment that would have had the answers. But it’s not going to tell me he could bake cookies, but if the stove was on fire, he would know to put baking soda on it. No, it wouldn’t have gone that in-depth. . . . It’s an assessment tool to help providers to work on the things that he needs to work on, to help him see where he needs the most support when he’s living independently.

Myers told the Ombudsman he does not put “a lot of stock in the test.” He said he suspects many children do not take the test seriously enough. Myers said if placement providers are doing their jobs, the children will learn independent living skills later, while in independent living or pre-independent living. He added, “And on the day they’re 18 they should be able to do real well on this test.”

Lucy Watson, former DHS employee for 27 years and a Supervisor of the DHS’ Mentally Retarded Developmentally Disabled Children’s Unit in Polk County when she established the

Polk County Transition Committee, told the Ombudsman she believed the test was "totally useless."

Because these 300 questions, either you get kids who really couldn't answer them very well, but a lot of times you might have someone who could answer them all, maybe make a decent score on the test, but really they're talking about knowledge - Do you know? Are you aware of, etc., etc.? And, in fact, some children may be hopelessly not ready for transition. Because none of that addresses - Is the child beating up his roommate every night? It wasn't that kind of thing. And so, they were not very useful. . . . The idea was it would show deficits and to work on those deficits. But, practically speaking, they weren't very useful at all. . . . The State needs to have some other means of assessing children for independent living because that doesn't do it.

According to Nelson, DHS is reviewing another assessment tool offered by the Casey Family Programs, called the Ansell-Casey Life Skills Assessment. Nelson told the Ombudsman DHS is "considering moving to using that tool."

O'Meara told the Ombudsman that she and other participants in the Dale Schmitz' "Youth to Adult Transition Community Meetings" have been talking about using the Ansell-Casey Life Skills Assessment "because it has both a youth component and a caregiver component."

Timing of Assessment

When asked if he got a good read for if and when Reggie would be ready for independent living, Myers said, "it really wasn't relevant" at the time because they were considering Boys Town.

Myers said he gets an alert when a child is 17.3 years old. He can interview the child again "as to how far they've come and where they're going." Myers believed DHS instituted the alerts before October 2000. He did not recall getting an alert for Reggie.

According to Riedel, Ford could have requested a second, later assessment nearer in time to Reggie's move to group home or independent living.

The Ombudsman asked Noble what would have happened if the foster care worker would have contacted a transition planning specialist regarding the contemplated move to independent living. Noble responded, "They could have given him another assessment like a post-assessment to compare where he was and where he is now."

Issue 1(b): Whether Reggie was "eligible" for independent living?

Conclusion:

The Ombudsman concludes Reggie was not eligible under DHS' criteria for independent living, under administrative rule 441-202.9(1)(a). In making this determination, the Ombudsman considered information available to DHS at the time of Reggie's move to independent living.

The Ombudsman finds Reggie met only four of the nine "eligibility" criteria. He met criteria (1), (2), (3), and (8). When he moved from Bracewell Group Home to apartment-based independent living (ABIL), he was more than 17 years old. He was going to school full-time. He was attending classes at Roosevelt High School and Central Campus, where he was enrolled in a culinary arts program. Reggie needed foster care placement and services. And there is no information indicating Reggie's apartment did not meet minimum standards.

The Ombudsman finds Reggie did not meet criteria (4), (5), (6), (7), and (9). Reggie had a long history of stealing. Ford and YHMA staff believed he would continue to steal while in independent living. Reggie did not follow all of the rules and expectations set by his placement provider while at Bracewell Group Home and he never regained employment. Reggie functioned fairly well during his last year in residential, at a cottage with considerable structure and supervision. But when he moved to Bracewell, with less structure and supervision, his behavior and attitude deteriorated, which resulted in lost independent living learning opportunities. He made minimal or no progress towards his treatment goals. Reggie was no more ready for independent living after Bracewell than he was before. Ford approved YHMA's recommendation to move Reggie to ABIL without benefit of review and approval by her immediate supervisor and area administrator.

According to DHS administrative rule 441- 202.9(1) (a), a child must meet all of the following nine conditions or criteria in order to be eligible for independent living.

- (1) Be at least 16 years old.
 - (2) If under the age of 18, must either be working (or in work training) full-time or be attending high school or attending general equivalency diploma (GED) classes and working (or in work training) part-time. . . .
 - (3) Need foster care placement and services. . . .
 - (4) Participate actively with the department caseworker in the development of the case plan and comply with its provisions.
 - (5) Refrain from involvement in any illegal behavior including using controlled substances or alcohol.
 - (6) Have capacity to function outside the structure of a foster care family or group care setting.
- Prior to placement an assessment shall be made that reviews all available information on the child to identify the needs, strengths, and resources of the child, especially as they pertain to the child's ability to live independently.
- (7) Have the potential to be financially and emotionally independent upon discharge from foster care.
 - (8) Have an approved living situation which shall meet the following minimum standards:

1. Be located so as to provide reasonably convenient access to schools, places of employment, or services required by the youth.
 2. Comply with applicable state and local zoning, fire, sanitary and safety regulations.
 3. Be reasonably priced so as to fit within the youth's budget.
- (9) Have the approval of the area administrator of the area where the child resides.

Criterion (4) “Participate actively with the department caseworker in the development of the case plan and comply with its provisions.”

There is no information indicating Reggie failed to participate in the development of the plan, but there is substantial information indicating he failed to meet his responsibilities under the plan.

Under Part C (“Responsibilities List”) of the October 27, 2000 Case Permanency Plan, Ford identified eleven responsibilities for Reggie:

1. Will abide by all rules and expectations of current placement.
2. Actively participate in counseling/therapy provided.
3. Cooperate with case plan.
4. Attend staffings and court hearings.
5. Attend school regularly and maintain satisfactory progress.
6. Seek, secure, and maintain employment.
7. Attend all visits set up with family.
8. Meet with DHS worker.
9. No change of address without prior approval from worker.
10. Actively participate in all aspects of placement program.
11. Gain independent living skills.

Reggie did not meet responsibilities 1, 6, 10, or 11. He did not follow all rules and expectations set by YHMA staff while at Bracewell. He never obtained employment after quitting his job at the movie theatre. Because of his stealing behaviors, he was not allowed to participate in all aspects of the placement program. He was restricted from many planned community activities. And he made little progress in gaining independent living skills.

According to YHMA’s November 29, 2000 “Quarterly Progress Report,” Reggie’s biggest struggle was “avoiding the urge to steal.” The report stated the following: “He was banned from the mall due to stealing a video tape from The Music Store and he also isn’t allowed at the gas

station next to Bracewell due to stealing items from there. Reggie is caught almost on a daily basis with things that do not belong to him.” The report also noted the following regarding Reggie’s struggle to obtain a job: “Unfortunately this doesn’t seem to be an important part of his treatment to him, but he understands this will be an expectation to meet before entering independent living.”

The report stated Reggie’s main objectives for developing independent living skills were to “utilize free time with passes, activities, and a job, rather than isolating, and that he would make mature decisions while interacting in the community.” But, it reported the following behaviors: “In addition to Reggie’s stealing, he was charged with being a minor in possession of tobacco. He was charged a \$50.00 fine and made to attend a smoking group.”

According to YHMA’s January 18, 2001 “Discharge Summary,” Reggie “struggled with avoiding the urge to steal” throughout his stay at Bracewell. And due to his stealing behaviors and the tobacco incident, “Reggie’s free time out of the house has been very limited and usually he needed to be under the supervision of staff.” YHMA staff also reported Reggie never obtained employment. “There were problems in obtaining a birth certificate and social security card which most employers needed to see before he could start, but mainly Reggie didn’t get a job due to him not feeling it was an important part of his treatment.”

Criterion (5) “Refrain from involvement in any illegal behavior including using controlled substances or alcohol.”

The Ombudsman finds Reggie’s stealing behaviors not only continued throughout his stay at Bracewell, but escalated, at least in terms of frequency, as independent living approached. The Ombudsman also finds neither YHMA nor Ford expected any change in the stealing behaviors after the move to ABIL.

The Ombudsman finds Reggie’s long history of stealing and DHS’ expectation that his stealing behaviors would continue – as a “coping skill,” as a way to deal with his anxieties – made Reggie ineligible for independent living. There is no indication Reggie “refrained” while at Bracewell and there is no indication he would have refrained at ABIL. There is no indication Reggie’s stealing was anything but serious, involving law enforcement in the past and certainly to involve law enforcement in the future. And there is no exception in DHS rule or policy allowing such stealing behavior even if viewed as a coping skill by a worker, placement provider, or mental health professional.

When asked why criterion (5) is included, Nelson responded, “Because if you’re in independent living, you do – you want the youth to succeed in making the transition, and you have less supervision available. Once you’re in independent living, you no longer have 24/7 supervision; where if you’re a youth in group care, the provider themselves is ensuring this.”

DHS Perspective

Nowhere in DHS rules or policy is criterion (5) explained. The terms, “refrain” and “illegal behavior” are not defined. The Ombudsman asked Nelson, Armstrong, and Riedel for clarification.

The Ombudsman asked Nelson several questions for clarification.

Q. Now, this is a criterion in order to be eligible for independent living, and it begins with “refrain.” Now, Webster’s definition for refrain is “keep one’s self from doing.” And I didn’t see any other definition of refrain from the rules. So that would work?

A. Works for me.

Q. How long must a child keep from doing?

A. . . . We don’t have a set minimum period, but you would look at patterns of behavior. And, again, part of it is an overall assessment of the youth’s readiness. Once you’re in independent living, you’re also expected to continue to refrain.

Q. Is there any leeway in “refrain,” if the illegal behavior has been minor?

A. The policy doesn’t say it has to be absolute. So I think it would be part of an overall assessment. . . .

Armstrong added, “Without getting into semantics of shall refrain, I would say that a worker is going to do an assessment depending on the seriousness of what the illegal activity is, seriousness and frequency.”

Nelson continued, “The other thing, I think, the worker would be looking at is what are the other options if this youth is approaching age 18. . . . And the other option is, no supervision, no continued services at all, that’s part of this overall assessment they have to use.”

The Ombudsman also asked Riedel regarding the meaning of eligibility criterion (5). He said “it means that he shouldn’t be involved in illegal activities. He shouldn’t be taking drugs.”

Q. Does that mean if he did engage in some kind of illegal activities, then he wouldn’t be eligible for independent living?

A. Probably depends on whether, you know, he was involved in that illegal behavior or using drugs prior to going into independent living. I don’t know. The whole – I think the whole thrust of this section is that probably the – well, the prognosis for a child being successful in independent living – and we certainly have a number of kids who aren’t successful – is probably lower if they’re involved in illegal behavior or they’re, you know, taking drugs.

Q. I still don’t quite understand. If the child has been involved in illegal activity, would that child then be eligible for independent living?

A. We have very few kids who are in foster care who haven’t been involved in some sort of illegal activity or who haven’t taken some sort of drugs, so if we would eliminate all those kids we probably would have very few kids in independent living, so it depends on – it depends on a lot of things. It depends on the circumstances. I mean, how serious was the illegal activity? Was it an ongoing kind of thing? Is drug use ongoing? It’s that type of thing. And all that’s used – and the reason I think that it’s in there is to give you some sort of indication as what the prognosis might be in the success of independent living.

. . .

Q. What is the foster care worker, a placement provider staff, they thought the child would continue to steal after going into independent living?

A. . . . Well, it depends a little bit on the circumstances of the case. I mean, how close is he to becoming 18, for example? Is he going to be out on his own at 18? If you think that – if that’s going to be, you know, a major issue for that kid, probably not, shouldn’t go into independent living.

YHMA’s Perspective

In YHMA’s purchase of service contract with DHS, “Refrain from illegal behavior, inclusive of substance abuse,” is listed as an eligibility criterion for ABIL, its independent living program.²⁶⁴

According to YHMA management staff Arndt and Wolfe, stealing would not necessarily bar placement in ABIL, but would trigger a “stipulation” that such behavior on a continual basis will jeopardize placement in the independent living program.

Jansen told the Ombudsman stealing would be a factor in the placement decision.

Trust, obviously, if, you know, they’ve had problems at the group home with stealing or at school or any of their community involvement, you know, that would be looked at. Is this person going to be able to be trusted alone, you know, past curfews, past whatever, when nobody is around to check on them.

Perspective from Child Psychiatrist Dr. Donner Dewdney

The Ombudsman asked Dr. Dewdney if there would ever be a reason not to consider “illegal activity” in moving a child to independent living. Dr. Dewdney replied. “Well, yes, I think that you may, depending on the situation of the adolescent, be willing to overlook some transgressions if there’s some kind of evidence that the – that this was a – an unusual or unique event for this adolescent and not a regular pattern. Should it be a regular pattern, obviously this presents problems in allowing or sanctioning, you know, the living situation for somebody who’s struggling with illegal substances, alcohol or marijuana, et. cetera.”

Q. Stealing as the illegal activity.

A. Stealing, you know, again, that’s a call that would be similar, in my opinion. It would be – If it was an occasional problem, then it should not be necessarily the reason for not being in a group home, but if it was a pattern, then it would be, and that’s when – And it’s – It’s making that call that is what we have, I guess, psychiatrists for and mental health professionals, because it’s not always easy.

In response to the question why a pattern of stealing would present a problem, Dr. Dewdney said it creates not just issues of responsibility and trust for the youth involved, but it often creates

²⁶⁴ Iowa Purchase of Social Services Agency Contract, YHMA Independent Living Purchase of Service Contract, Service Description Independent Living Attachment, February 28, 1998 through January 31, 2001.

problems for managing other adolescents in the same situation - - that is, “peers become angry, especially if he’s taking things from them, and . . . other problems start to develop, such as aggressive outbursts.”

The Ombudsman then asked, “What if the child has been diagnosed with a mental illness and the foster care worker has interpreted or considered that stealing behavior as a way the child is coping with a situation, it’s how he copes, would that make a difference?” Dr. Dewdney responded, “Not in the dynamics I suggested.”

Q. . . . [I]f there was some indication that he was truly worried about it, making some efforts to correct his behavior, then at that point it would be all right to move the kid into independent living?

A. Again, we’re talking about a matter of degree and a difficult call, because if the acting out is continuing, it still presents the problems that I mentioned, so it’s a function of how much and what is being stolen.

Reggie’s Stealing Behaviors

According to Jansen’s October 17, 2000 entry in his Caselogs, he discussed with Reggie “how to be more aware of his feelings and to seek out staff and discuss them so that he doesn’t steal or act out sexually.” Jansen noted, “Reggie seems to be getting caught almost daily with something that doesn’t belong to him. Verbalizes that this is wrong but claims he can’t help it.”

Ford told the Ombudsman Reggie “never really lost his habit of sticky fingers.” In her October 27, 2000 Case Permanency Plan, Ford reported Reggie stole a videotape from the mall and a lighter and a map from a convenience store. She stated she believed this behavior may have been due to “all the recent changes” in his life.

Recently Reggie was banned from Merle Hay Mall because he stole videotape from a store. He also stole a lighter and map from the Kum and Go store near the group home. This writer believes that all the recent changes may have prompted this behavior. In the past when Reggie is busy with school, work and the cottage milieu he is successful. Hopefully, he will find a routine, which will provide him with stability.

Dr. Kerber met with Reggie on November 13, 2000 and noted Reggie “doing some stealing,” and that Reggie told him he was not sure why he was stealing and felt it was compulsive.

Eric Goodale, who succeeded Jansen as Reggie’s counselor, made the following entry in the Caselogs on November 14, 2000: “Reggie says he doesn’t really think it is wrong to steal. Says he does so to fit in. This lead [sic] to his identification of image & fitting in as more of a motivator than not thinking it is wrong.”

In the November 29, 2000 “Quarterly Progress Report,” YHMA reported to Ford that Reggie was having “daily struggles with acting out his anxieties through self-destructive behaviors and thoughts.” His “biggest struggle,” according to YHMA staff, was “avoiding the urge to steal.”

Goodale’s December 12, 2000 Caselog entry indicated Reggie spoke with Goodale about “some questions” he had regarding independent living. Goodale advised Reggie he could use the new placement as an opportunity to practice skills, like “honesty” and “not stealing.”

Ford met face-to-face with Reggie at Bracewell on December 14, 2000. Ford summarized the following discussion in her Narrative Continuation:

This worker talked about his stealing. Reggie reports that he was stealing due to being nervous about Independent Living. This worker reported that behavior would not be acceptable as an adult and he would reach majority in less than 2 months. Reggie understood and reported that he would improve on his behaviors.

Dr. Kerber met with Reggie on December 18, 2000 and noted in his Progress Notes the following:

Pt states he was caught stealing [at] Walden Books – pornography. Pt is on campus restriction . . . Pt states his urge to steal is getting bad. He is either thinking . . . sex or stealing no acknowledgment or remorse. . . . Pt language full of cussing - loss of self-respect.

On January 2, 2001, following a group therapy session, Goodale noted in his “Group Therapy Report” that Reggie said “he would like to stop lying & stealing & is willing to make that change. Identified it’s the rush that leads him to steal, but couldn’t identify what he could do instead & couldn’t identify how he was eventually going to quit lying & stealing.”

When asked why Reggie was moved to independent living even though he continued to steal, even though he had not achieved his goal of developing skills to effectively identify and cope with his anxieties, Ford replied, “I think we became accustomed to his stealing. We got very used to it. That was a quirk that he was going to do, and there was going to be little we could do to completely get rid of that.”

The Ombudsman asked Ford, “Did you think that after Reggie moved to ABIL he would steal less or more or the same?” Ford replied, “Probably the same. I thought that was going to be part of his personality. That was a coping thing for him.”

The Ombudsman asked Jansen if he thought Reggie would quit stealing if moved to ABIL. Jansen said, “No.” Jansen added that stealing “was a coping skill for him.”

Criterion (6) “Have capacity to function outside the structure of a foster care family or group care setting.”

The Ombudsman finds Reggie did not have the capacity, in mid-January 2001, to function outside a group care setting. Reggie was not ready for apartment-based independent living. The Ombudsman also finds the likelihood of failure was too great to risk another major setback that was sure to affect Reggie’s already low self-esteem, as well as his willingness to accept and utilize services.

Most, if not all, of the information from YHMA indicated Reggie was not ready for independent living. According to YHMA staff, Reggie functioned fairly well during his last year in residential, on campus, in a highly structured and supervised living arrangement. But when moved to Bracewell Group Home, with less structure and supervision, he struggled. He struggled with his anxieties. He increased his lying and stealing. His self-destructive behaviors worsened as the time for independent living approached. He had no interest and saw no need in regaining employment. He ranked towards the bottom in daily and independent living skills. His decision-making was impulsive; he took unnecessary

risks. Bracewell was supposed to give him time to transition from residential to ABIL. At Bracewell, he was to learn and practice independent living skills – to do things for himself without prompting or supervision, to take care of himself, to keep himself safe, to manage his medications, to go out into the community and make mature decisions. According to YHMA staff, he did not make the best use of his time at Bracewell. Because of his self-destructive behaviors he was restricted from taking advantage of all the learning opportunities. His interaction with the community was limited; he had to be supervised.

All of the information from Reggie's school indicated Reggie lacked the capacity for independent living. His special education teacher, the staff person at his high school who knew him best, was extremely upset when she found out Reggie was moving to his own apartment. She worried about his personal safety. She thought Reggie lacked the skills and mental capacity to manage his own affairs and make important, reasoned day-to-day life decisions that would be required of him in independent living.

Almost all of the information from Reggie's therapist indicated Reggie was not ready for independent living. Reggie was excited about living on his own but was worried about being alone, finding employment, getting to places, and getting things done. The therapist noted a change in Reggie's attitude towards counseling while at Bracewell. As independent living approached, Reggie started not to use counseling and seemed less forthcoming. His therapist also observed that his mood and his hygiene started to deteriorate. As independent living approached, Reggie also had more and more problems with peers at the group home and at school. A month-and-a-half before moving to his own apartment, during a counseling session with his therapist, Reggie reported he was angry with his peers. Ten days before moving to his own apartment, he produced a Swiss Army knife during a session with his therapist and professed he was often angry at school peers. Although he acknowledged that some children do respond better without structure, Reggie's therapist said he had no reason to believe that would have been true for Reggie.

Reggie's Guardian Ad Litem received little information about Reggie's progress during his last ten weeks at Bracewell Group Home. She last visited Reggie on October 17, 2000. She last talked with Reggie during the court review hearing on October 27, 2000. She was not really involved in the decision to move Reggie to apartment-based independent living. She relied on Ford's experience and expertise. When she learned of the decision she agreed, but was concerned about the lack of supervision, but thought the options were limited at that time.

In response to the Ombudsman's question about criterion (6), Nelson said capacity is determined "through an assessment that looks at strength, resources, what other persons involved with the youth, their assessments, as well as the worker's." She acknowledged another indicator is the child's progress – what services were provided and how the child responded to those.

The Ombudsman asked Dr. Dewdney, "In moving a child from a group home to independent living, what should be considered in making that decision?" Dr. Dewdney answered:

The criteria that we use at Orchard Place [in preparing a child for independent living] might vary somewhat from the criteria of the Department of Human Services and their concept of an independent living program, but basically it is the ability of the child to establish – or the adolescent – excuse me – to establish some capacity for independent functioning which would either be achieving at school or attending off-campus school and/or being able to hold down a job, and therefore,

being able to help with defraying his or her board should there be some kind of independent living, apartment-like program.

According to Dr. Dewdney, Orchard Place has no independent living program but does prepare children for independent living.

The Ombudsman asked Dr. Dewdney what factors he would consider in determining “capacity” in criterion (6). Dr. Dewdney told the Ombudsman, “The factors I would look at for that capacity would be proven ability to act responsibly, either in attending such things – if this were a transition from a residential center, the ability to attend off-campus school, the ability to hold an off-campus job or an on-campus job but doing that responsibly and a track record of – of the capacity to be more responsible and need less in the way of day-to-day directive help from staff.”

Perspective of Reggie’s Foster Care Worker

Independent living was not Ford's first choice for Reggie. She favored Job Corps., a placement that would have offered more structure and supervision. The Ombudsman asked, “What did you think Job Corps would do for Reggie?” Ford answered:

Provide him with vocational and independent living skills as well as a supervised setting till he was twenty-one. He could try different types of work settings in a nonthreatening arena. . . . And he could try all those settings and still be paid for that and still have a place to live and continue getting his high school diploma.

When asked if she saw Job Corps and Bracewell as an either-or situation, Ford told the Ombudsman she “would have preferred Job Corps because “it was more of an opportunity for him” and “[h]e could have stayed there till he was twenty-one had he followed the rules.”

After placement at Job Corps fell through, YHMA staff recommended moving Reggie to Bracewell Group Home and Ford approved the move.

Ford told the Ombudsman she thought Reggie did well on campus at YHMA before his move to Bracewell. “He was a leader on campus. He was someone that staff would turn to if there was a disruption with the other kids. He was very successful on campus.” According to Ford, “When they kept moving him down to a lower level of care, he couldn’t handle the intimacy.”

Ford submitted her last Case Permanency Plan for Reggie to the Juvenile Court on October 27, 2000 wherein she reported Reggie was moved to Bracewell and “will continue to work on developing effect [sic] coping skills, appropriate communication skills and independent living skills.” But she also reported she did not expect Reggie to move to ABIL for another year.

The Ombudsman asked Ford what would have happened if she had not approved Reggie’s move to ABIL, if she had decided he was not ready for independent living. Ford answered, “He would have stayed on campus or at Bracewell, but he was not doing well at Bracewell. He was not doing well in the school setting so he was just plain not doing well, so I would have had to have moved him someplace else.” When asked where, she said, “Probably to a shelter or back to campus.”

The Ombudsman then asked, “If he’s not doing well at Bracewell at the time and not doing well, you said, school environment, then why move him to ABIL?” Ford replied, “I think that was something that he wanted to do also. He thought he could handle that situation.”

Ford told the Ombudsman that Reggie “had a long history with inappropriate behaviors, and I think that the freedom of living on his own gave him the opportunity to seek out that dark side of him.” The Ombudsman asked, “Knowing the history of those bad behaviors, even in a structured setting, wasn’t it foreseeable that if he was in an unstructured setting that he would be more free to go the dark side?” Ford replied, “I didn’t realize how dark that was.”

Information from YHMA

Arndt told the Ombudsman the typical process for children at YHMA whose goal is independent living is first, residential or cottage, then group home, and finally ABIL. According to Arndt, the process allows the child to gradually step down in levels of structure and supervision.

When asked where Reggie ranked, in terms of basic or daily living skills, compared to other children who moved from cottage to group home, Jansen said, “As far as daily living goes, more towards the bottom...he needed more of that prompting and redirection and overlooking to make sure things got clean or got picked up.” When asked for Reggie’s ranking in terms of independent living skills, Jansen said, “Again, more - more towards the bottom.” Jansen told the Ombudsman, “I think the biggest thing that hurt him was his honesty. I know he had several jobs lined up, but he would admit to stealing and things like that, and that really kept people from, you know, hiring - hiring him.”

The Ombudsman asked Arndt to define and distinguish the terms, “basic living skills” and “independent living skills.” Arndt responded:

For us basic living skills are skills which kids - all kids have to attain. We teach basic living skills out here as far as social skills, how to interact in the community, how to interact around adults, around peers, how to interact in the classroom, which are the basic skills. Independent living and schools are a step higher that we acquire as we mature. How do you then - How do you then self-regulate yourself, or how do you then transfer things that I have told you what to do for years as a parent or as a surrogate parent to now telling yourself to do? That’s a general - In independent living you have to - you have to learn skills which aren’t prompted by adults or by adult interaction.

. . .

In independent living you have to get yourself out of bed. You’re responsible to go to school. If you have a doctor’s appointment, an out program, for an example, we may help you get there, but you have to make sure that’s arranged. You have to buy your clothing, pay your own bills. So the differences are fairly obvious in that area.

Reggie moved to Bracewell on October 2, 2000. After a session that same day with Reggie and other youths from Ross Cottage, Jansen noted in his Group Therapy Report, “Reggie was excited about moving to Bracewell and getting away from campus” but he was also “nervous about turning 18 soon and about making decisions that could greatly affect him.”

Following another group therapy session on October 10, 2000, Jansen noted, “Reggie has allowed himself to get involved with many of the negative interactions which are going around. His decision-making is fairly impulsive and he doesn’t think of possible long-term effects.”

According to Jansen’s November 2, 2000 Caselogs, he talked with Reggie on November 2, 2000 about his readiness for independent living, including the importance of getting a job. He told Reggie he was concerned he would not be prepared for independent living by his 18th birthday. He warned Reggie if he “wasn’t out of Bracewell by then that he would just leave the program.” He told Reggie he needed to be “more proactive and not allow his anxieties to cause him to self-destruct.” He also told Reggie he needed to be “more responsible for his actions.” Jansen noted, “Reggie is anxious about his future, but he lacks motivation to do things to ease his anxieties.”

Reggie spent three and one-half months at Bracewell Group Home. As the following statement from the January 18, 2001 “Bracewell Group Home Discharge Summary” indicates, Reggie did not make the best use of this transition time.

This time was supposed to allow Reggie a transition period between the structured campus setting and his eventual independent living apartment setting. The goal was to get Reggie out into the community as much as possible to better him for life on his own. Unfortunately, Reggie’s behavior restricted him from fully taking advantage of the opportunities that were available to him. During this time Reggie made progress at his established goals, but often they were overshadowed by his relapses of concerning behaviors.

David Beamer, Reggie’s Mentor and Independent Living Counselor, told the Ombudsman he was not involved in the decision to move Reggie from Bracewell to ABIL. When asked for his reaction to the move, Beamer said he was “quite concerned.”

Well, I knew he had a history of stealing. I knew he had never been on his own...that he probably wasn’t the equivalent of an 18-year-old As far as mentally...I just didn’t know if he could cut it on his own because of those factors, and just from knowing him for so long.

When asked if he believed Reggie needed more time at the group home, Beamer said:

To be honest with you, I don’t think it mattered if he was there another three years. . . . Of course, that wouldn’t have been allowed, but I just think that he needed some other sort of placement at that point, some other form of adult service.

When asked if he had concerns about Reggie’s ability to handle his medications, Beamer told the Ombudsman he did not “initially because Reggie didn’t have a history of abusing his medicine.” But, he pointed out Reggie’s medications were always administered to him on campus and at Bracewell.

Beamer said he shared his concerns with Jansen and believed Jansen shared his concerns and belief that Reggie was ready for ABIL.

Jansen told the Ombudsman he talked with Beamer about Reggie’s move from Bracewell to ABIL. When asked what Beamer thought about the move, Jansen said, “[F]rom what I recall,

the same as everyone else, some reservations that this is going to be tough for him, but with the understanding that this is ultimately what is probably in his best interest.”

Information from Reggie’s school

Beamer told the Ombudsman when he told the teachers at Roosevelt about Reggie moving to ABIL, “they were concerned.” He had the most contact with Graziano.

Graziano confirmed she expressed concern to Beamer and told him that Reggie was not capable of living independently. She said she asked Beamer if there was anything they could do to stop the move, and Beamer suggested she call Ford.

Graziano told the Ombudsman she telephoned Ford the same day she talked with Beamer about Reggie’s upcoming move to independent living. She believed the conversation took place late December, 2000 or early January 2001.

Q. Tell us about the conversation between you and Ford.

A. I called her. I identified myself. I told her my concerns. I said, “Reggie is on my case list. I’m concerned. This kid is functioning well below grade level. He’s mentally disabled. He’s not going to be able to make it on his own.” And she said something to the effect that he was turning 18 and there wasn’t anything - why were we calling her? Why didn’t we do something? And then she started talking about how many times the school system called her to complain about kids and why didn’t we do our jobs.

Q. Did Ford talk about why he was going into independent living?

A. No, other than to say, “It’s time. He’s turning 18.” And there were no services available. He’s 18 and it’s time.

Ford confirmed she received a telephone call from Graziano, in which Graziano told her that Reggie should not be in independent living.

Q. Did you respond to her?

A. I told her that I had to work in the system that I was in and that I had known Reggie for a long time and that he made a lot of accomplishments and if - and that the recommendation was to move him to independent living. But she was very hostile and critical of the program overall, so she wasn’t an easy person to communicate with.

Graziano told the Ombudsman if she had been consulted beforehand about a possible move to independent living, she would have told the placement provider and DHS, “No.” She said she would have told them “he’s a danger to himself.”

Q. They would have asked you why.

A. And I would say he doesn’t have the skills to live independently. He couldn’t manage his money, he gave it away. He had very poor judgment. He acted like a much younger person.

Q. What if they would ask, “Why not give it a chance, let’s see if he succeeds?”
How would you have responded?

A. I don’t think he will. And I think he’s a danger to himself.

Q. Danger in what way?

A. I knew that he was kind of addicted to sadomasochistic behaviors. I don’t think that - he would tell me, “I have a great pain level. People can’t hurt me. I let them hurt me all the time.” And I don’t know - I know he got beaten up and was in the hospital shortly after he disappeared from Roosevelt . I mean I really will always wonder what happened to Reggie. And I know that someone was coming in his apartment in independent living and hurting him.

Q. How do you know that?

A. He told me.

Q. What if they would have asked you, “Well, what are we going to do? In a month he’s going to be 18.”

A. I would have looked for a home, a sheltered environment for Reggie. I don’t think he was capable of living independently. But as a teacher I can’t set that up.

Information from Reggie’s therapist

Dr. Kerber served as Reggie’s therapist from January 13, 1999 through March 2, 2001. During that time period he accounted for 41 meetings with Reggie.

Dr. Kerber told the Ombudsman the “latter third” of his therapy focused on how Reggie would handle post-residential care at Bracewell Group Home and then ABIL. “And much of that involved concerns about how he would respond with varying levels of structure and supervision.”

According to Dr. Kerber, before Reggie’s move to Bracewell, “[T]here were times, good stretches of time, I would argue just by memory, weeks if not months, when his behavior with relatively low structure was really quite sound and encouraging.” He said when Reggie went to Bracewell, he struggled with peer relationship problems and conflicts and felt threatened going to school. He also observed the following elements of deterioration in Reggie: “His mood, his hygiene started to deteriorate. That was more obvious as soon as he went to . . . Bracewell. I think there was still enough structure that that was not dramatically obvious. But his mood was less stable with less structure.” He said he talked with Reggie about how he might deal with the variety of opportunities in independent living, and recalled clearly being even “more concerned for more struggle.”

In the progress notes of his meeting with Reggie on December 1, 2000 he noted the following:

Pt snapped at staff. Pt seems emotionally disconnected - ‘made her cry . . .’ (i.e. female staff). Pt upset about being called a liar . . . feels treated unfairly. Feeling persecuted by all peers. School states going well - Pt angry - peers hitting him he wants to blow up – frustrated . . . next mo - to Ind. Living - Pt needs to be out of group care - Pt states he wants to be an astronaut.

Dr. Kerber met with Reggie again on January 5, 2001 and noted, “Pt goes independent living on 1-15-01. Feels very good about it.” But he also noted the following:

Pt produces Swiss army knife. Claims staff was aware of it. “I’m depressed every day.” Zoloft Dexedrine. Pt acknowledged stealing. Confronted credibility & his exaggeration - with social costs. Pt responded defensively. Pt also stated & displayed knife but made no threats of self-harm or harming others. Pt states school - ‘going good’ - Jr @ Roosevelt. Difficulty reading 6 digit numbers. Pt states he is often angry @ school peers but 0 thoughts of hurting them.

According to Dr. Kerber, after Reggie went to Bracewell, he started to “not use counseling as it was available to him . . . he seemed to be less forthcoming.”

When asked if Reggie was looking forward to living his own apartment, Dr. Kerber replied:

In some ways he was certainly looking forward to it. I recall him saying he was looking forward to the independence, having the opportunity to go to bed when he wanted to go to bed, the simple kinds of day-in and day-out freedoms, if you will, that are not typically provided at the residential facilities, or even at Bracewell where there’s some degree of structure.

Dr. Kerber, however, also mentioned Reggie was concerned about certain things.

He was concerned about how he would, I think, just get things done, how he would get to school, how he would kind of move around. . . . I think he was concerned about how he would be employed. What he would do when he was in independent living. Because, of course, while he was at residential his only noteworthy job experience had been facilitated by staff people driving him there, et cetera and so forth. So some of those things he expressed some concerns about.

Dr. Kerber told the Ombudsman he believed YHMA staff and DHS wanted Reggie to try ABIL before he turned 18 years old, to see if he could “turn it around.”

My recollection was that there was a sense of wanting to increase, even though it was a brief period of time before he hit 18, to try and have him show whether he would be able to turn it around. Because he had been struggling at Bracewell. Once he got into independent living, would he, in fact, turn around. And that’s not unheard of. Sometimes, you know, kids will do that. I think it’s the exception and not the rule. But, sometimes I know that kids can respond better without structure. I have no reason to believe that would have been Reggie’s – that’s by matter of comparison, it doesn’t apply to Reggie. I would never have thought that to be the case.

But I recall that it was somewhat dictated by his age and the amount of time that people felt we had to still work and be supportive of him before he hit 18, because there was a great deal of concern about what kind of services were really going to be available for him, and . . . whether he would use them or not . . . and nobody really knew how he was going to follow through or not.

The Ombudsman asked Dr. Kerber how he would have answered if YHMA would have contacted him in early December or early January, told him they were planning to move Reggie

into independent living on January 15, 2001 and asked him if Reggie was ready to go. In response, Dr. Kerber said:

I would have hoped that I would have said that, you know, “I don’t know how he’s going to do.” I don’t have a crystal ball. . . . I know I was concerned about how he was doing at Bracewell. But I also know that he wasn’t totally falling apart at Bracewell. There was a period of time he was doing okay. He wasn’t stealing every day. He wasn’t getting into fights every day with peers, as to my recollection. There was some relatively favorable indications.

So, you know, your question is as stated, I hope I would have said. . . . “I really don’t know. I know he’s going to be 18. I know that we need to work hard. And if there’s anybody who can do anything to establish adult services for him, then we need to try to do that.” I know that was part of our discussions at that time. And, again, I know that - I assume DHS, and I heard that DHS and Youth Homes were having back-and-forth discussions about what was going to happen after 18.

When asked how he would have responded had YHMA staff asked him if Reggie would continue to struggle in independent living, Dr. Kerber answered he would have said “probably.” Dr. Kerber told the Ombudsman Reggie presented a danger to himself with respect to the peer relationships or associations he was developing or subjected to, but not in terms of self-harm -- “there was no indication that he would have been involved in any suicidal ideations.”

Information from Reggie’s Guardian Ad Litem

Karen Taylor served as Reggie’s attorney and guardian ad litem from November 1997 until the court case closed on February 14, 2001. She described her guardian ad litem role as “keep in contact with the department workers, therapists, represent the child in court proceedings.” She told the Ombudsman, “If I feel that there are other services that the child needs, that those are brought to the Court’s attention. And to meet with the child at least once before every hearing.”

When asked to describe her contact generally with DHS foster care workers, Taylor said as in Reggie’s case, “a lot of that would occur even at the courthouse.” Taylor told the Ombudsman she had “pretty regular contact” with Karin Ford, even if it was in passing and stopping at the courthouse for 15, 20 minutes, to kind of see what was going on and where he was and how he was doing.” Taylor said she did not document any of her courthouse or telephone contacts with Ford. She did not believe she ever sent Ford any written communication concerning Reggie.

As for communications with YHMA staff, Taylor said, “There wouldn’t have been a whole of contact between me and Youth Homes.” She said generally YHMA contacts the DHS worker. She added, “I would have been notified of staffings, which I would have attended. And if there were some problems, I would have received copies of correspondence that would have gone to Karin Ford. And I do have a few of those correspondences in the file.” Taylor recalled attending one staffing for Reggie at Orchard Place in March 1998 and maybe another at YHMA in late 1999 or early 2000.

Taylor told the Ombudsman she does not recall getting any kind of report from Ford or YHMA summarizing Reggie’s progress at Bracewell Group Home. She vaguely remembered that Reggie “was having some coping skills with the change” but did not remember “any specifics.”

Taylor did not recall any communications with anyone at Reggie’s school.

Taylor had a visit with Reggie on October 17, 2000 while he was at Bracewell. According to Taylor, Reggie told her he was going to voluntarily continue services past age 18. Taylor also documented in her file on Reggie the following information from that visit.

Stole recently from Merle Hay Mall - not doing quite as well - misses Youth Homes. Thinks things will get better - he will cont. voluntary services past 18. Wants to get his own apartment.

Taylor said her last contact with Reggie was at the October 27, 2000 juvenile court hearing.

The Ombudsman asked Taylor said Reggie's move to ABIL was already in place before she was notified of it. She believed Ford informed her about the move.

Q. Did Ford give you reasons why they were moving him to his own apartment?

A. Again, I think it was just in preparation of his 18th birthday. The fact that he was going to be turning 18 and they were looking for alternatives rather than just Youth Homes kicking him out on the street when he turned 18.

Q. Did you agree with the decision?

A. At that point in time, I felt that it was probably one of the few alternatives that were left, particularly when places like the boot camp had decided they weren't going to take him.

Q. Did you have any concerns?

A. Well, of course.

Q. What concerns?

A. Well, again, this is – You know, he is not – he was not a normal 18 year old child. But again, I think that these independent living situations are geared towards helping mentally-delayed individuals. That's what they're there for is to help them and assist them in being somewhat independent. I think that if Reggie had had some commitment to it, he probably could have been successful. He had been doing quite well at Youth Homes towards the end. But again, my concern had to deal with the fact that one of the reasons that Reggie often needed to have regular consistent structure, and I wasn't sure that he was going to get that on independent living. But again, options were pretty limited, I think, at that point.

Risk of failure

The Ombudsman asked Jansen if there were any thought to how a failure might affect Reggie. Jansen replied, "I think we - As mentioned earlier, I mean, his self-esteem was pretty poor, any setback that he had he definitely would continue to push that down."

The Ombudsman asked O'Meara what would be the problem in trying independent living, even if the school has concerns the child might fail. O'Meara answered, "The problem is that we want to provide an environment that creates the opportunity for the child to have the greatest success, and why would we want to just let kids fail if there are things we could do to help them succeed."

McGinnis-Smith added, “So many of our kids have had so many other experiences with failure, I mean, in living situations that another experience with that is not necessarily good. There needs to be supports in place so at least it has a chance to succeed. That’s the way we approach special education.”

Dr. Jeschke interjected, “It’s a basic responsibility we have as caretakers.”

O’Meara continued, “I think there are times, you know, for a lesson, you know, that you would let them fail to get them - maybe they’ll get that message. But when you go into independent living, that’s like failing in life. I mean, the stakes are so high for safety, you know, for stability, emotional stability, you know. It’s just - the ramifications are so huge.”

McGinnis-Smith told the Ombudsman she agrees with O’Meara, that children should have some experience with failure but the failure should be planned “in order to take responsibility.” She said the failure should not jeopardize a child’s safety.

Criterion (7) “Have the potential to be financially and emotionally independent upon discharge from foster care.”

Given the information provided by YHMA staff, Reggie’s special education teacher, and Reggie’s therapist, the Ombudsman finds Reggie did not have the potential, in January 2001, to live on his own after foster care. When Reggie moved to apartment-based independent living on January 15, it was highly unlikely Reggie would be financially and emotionally independent at age 18, one month away, or even at age 20 when voluntary foster would have expired.

Even though employment was an expectation for independent living when he entered Bracewell Group Home, Reggie failed to obtain employment and, according to YHMA staff, failed to understand the importance or need to get a job. At Bracewell, his self-destructive behaviors continued, even escalated. He was not able to successfully manage those behaviors and there was no indication he would be able to manage them any better in independent living.

Reggie’s special education teacher thought him incapable of independent living. She considered him a danger to himself, unable to perform essential day-to-day tasks – like managing his money, getting to school regularly and on time, and taking his medications. She rated his academic functioning at third or fourth grade level.

Reggie’s mentor and eventual independent living counselor thought Reggie would not be ready for independent living for another three years, if ever. He worried that Reggie would allow himself to be hurt.

When asked why criterion (7) is important, Nelson replied, “Because ideally the intent of independent living is to transition a youth to being out on their own. And as a result, it’s a service most suited for youths who have that potential.”

The terms, “potential” and “financially and emotionally independent” in criterion (7) are not defined by agency rule or policy.

The Ombudsman asked Nelson for assistance in understanding the meaning of those terms.

Q. “Financially independent,” is that without or with government assistance?

A. We’ve not said that it couldn’t include government assistance; particularly something, I think, like, Medicaid might very well be something, you’re still able to live on your own, but you get your health covered through Medicaid.

Q. “Emotionally independent,” is that without therapy?

A. I don’t think we precluded that you might need some support to achieve that level of independence. But what they were trying to get at is if you are never going to be capable of living outside of an institution, if that’s the level of care you need and you’re likely to need throughout your adult life, then independent living may not be the right service but if in the end you’re likely to be living out in the community and have that potential.

Q. The third word there, “potential.” Is that the same thing as expected?

A. I think it’s a little less strong. Potential – expected in my mind means that in all likelihood it’s going to happen. Potential, I don’t know if you’ve looked it up in the Webster, but it suggests that it’s less certain but that the possibility exists. There is a potential. It’s not precluded.

The Ombudsman asked Dr. Dewdney how he would determine “potential” in criterion (7). Dr. Dewdney answered:

Well, certainly from the financial point of view, I mentioned earlier demonstrating the ability to hold a job or carry out some kind of responsibility, if not off campus, something on campus. Emotional independence is a little more difficult to establish, but it refers to how often does this particular kid need a parental-like directive to help him make decisions from day to day and how much is he doing it on his own. You know, whether this is getting himself dressed, making decisions about his homework if he’s going to school, all of the things he has – all of the responsibilities he has in his residential program.

Criterion (9) “Have the approval of the area administrator of the area where the child resides.”

The Ombudsman finds Ford’s decision to move Reggie to apartment-based independent living was never reviewed and approved by her supervisor or area administrator, which is in violation of DHS rules and policy. The Ombudsman believes there is value in supervisory review. Engaging the supervisor and even the area administrator in the decision-making process should give the worker an additional, more experienced and holistic perspective in the collection and analysis of the relevant information. Obtaining supervisory review and approval serves two important functions. It should check the work of the worker in conducting the assessment and give DHS another opportunity to review the child’s abilities and determine whether the recommended move to independent living is indeed in the child’s best interest.

The Ombudsman also finds the DHS review and approval process, although it was not followed in this case, is lacking in two key respects. First, the form that is supposed to be completed by the worker and signed by the supervisor and area administrator -- indicating

review and approval of the worker's recommendation for independent living, does not reference all of the eligibility criteria. Important criteria, like the "capacity" to function outside group care and the "potential" to be financially and emotionally independent after foster care, are not included.

Second, the supervisor and area administrator's approvals are not required entries in the DHS computer case-tracking system, which means children can be moved to independent living and placement providers can be paid without any supervisory review ever taking place.

DHS Manual mandates the following pre-placement procedure related to criterion (9): "Prepare form 470-3186, *Approval for Independent Living Foster Care Placement*, to get approval from the area administrator for the county where the youth is from."²⁶⁵

The "Approval for Independent Living Foster Care Placement" form (form 470-3186) is a one-page sheet that contains a series of statements with check-off boxes next to the statements.²⁶⁶ In the appendix to the DHS Manual are the instructions for completion of this approval form.²⁶⁷

Nelson told the Ombudsman, "According to the instructions, the youth social worker, case manager, is to prepare the form." Nelson said the form is signed by the worker, the worker's supervisor, and the area administrator. She said the form is generally signed by the administrator before the child is moved to independent living. When asked if the form is supposed to be done on every case before the child is moved to independent living, Nelson responded, "Yes."

Purpose and Content of Approval Form

Nelson told the Ombudsman that form 470-3186 is intended to be used "to get the approval for the independent living placement itself as well as approving any initial allowance" to subsidize Reggie's independent living.

In reviewing the form, the Ombudsman noted the statements parallel some, but not all, of the eligibility criteria for independent living, found in administrative rule 441-202.9(1)(a). For example, the first statement by a box is: "Child completed an Assessment of Independent Living Skills in _____ Month/Year." Another example is: "Attending high school full time and working, or in work training part time." At the top is a place for the child's name, date of birth, county, and date. Two-thirds of the way down is a place for the worker and supervisor to sign and date. At the bottom is a place for the Human Services Area Administrator to sign and date.

When asked why all the criteria are not listed on the form, Nelson opined that some of the requirements "are perhaps collapsed into a single statement."

For example, the child was recommended for independent living by the foster care review committee perhaps is capturing some of the requirements like the

²⁶⁵ DHS Manual XIIX – F – 7

²⁶⁶ See Appendix L, Form 470-3186, "*Approval for Independent Living Foster Care Placement*."

²⁶⁷ See Appendix M, DHS Manual XVIII – Appendix – 2g, Instructions for Form 470-3186.

need for foster care placement and services. They have the potential to be financially and emotionally independent upon foster care. I think some of the other independent living requirements in the rule are ongoing requirements. For example, refrain from involvement in any illegal activity is more of an ongoing requirement that the youth is committed to, and often I think it would be reflected in their case plan as opposed to simply a criteria to make you eligible.

Nelson acknowledged that criteria (4) through (8) are not on the form, but suggested some of them would be “picked up . . . through the assessment, like the capacity to be independent.”

Armstrong added, “I would say [criterion] 3 is actually the first box. It’s regarding the assessment of independent living skills and the need for foster care placement services based on an assessment possibly.”

Approval Entry on Computer System

The Ombudsman noted another inconsistency in the approval process in terms of who enters the supervisory approval on the DHS computer system. When asked if the area administrator’s approval or denial on form 470-3186 is entered on a DHS computer system, Nelson initially indicated she did not know. Nelson subsequently checked the FACS system²⁶⁸ and informed the Ombudsman, “There is a FACS screen for the caseworker’s supervisor, but not the [area administrator], to show approval for all foster care placements, including independent living.”

Nelson added, “FACS does not require this supervisory approval prior to issuing payments. Supervisors, however, are issued alerts for all placements. Although not a required entry, the only way to remove the alert is for the supervisor to take action in response to the alert.”

Supervisory Review and Approval

The Ombudsman asked Riedel, then Area Administrator for the Polk County DHS office, who determines whether a child meets the eligibility criteria for independent living. Riedel responded:

Well, it’s primarily the worker or the worker in conjunction with the supervisor or the worker in conjunction with the supervisor and private provider; transitional living specialist comes into play as well.

Q. Who makes the final decision?

A. Well, usually it’s the worker and the supervisor. If you’re asking who signs off on it, that’s obviously me.

The Ombudsman asked Nelson, “When the administrator gets the form, is asked to sign the form, does the administrator get anything else?” Nelson answered. “I don’t see a requirement that there be anything else provided. They might, but I don’t see a requirement for anything else.”

²⁶⁸ FACS (Family and Children’s Service) system provides the automated data collection and payment mechanism for many DHS service programs.

The Ombudsman then asked, “If the worker submits the form and the worker checks the boxes and asks the area administrator to sign off, if the administrator isn’t given other documentation – case plans, court review orders, reports from placement provider – how valuable would the administrator’s signature or approval be?” Nelson replied:

If the worker and supervisor have filled out the form and identified that there’s been these assessments, the supervisor has approved it, the area administrator, like I said, there may be additional information. But in the absence of that would be relying on the role of the supervisor, which is to review the work of the line worker and ensure – I mean, they’re sort of the check on that that the area administrator would be relying on. So the area administrator is not necessarily – by having them sign, we’re not necessarily asking they make an independent assessment of the worker but that they ensure that the pieces are there.

Armstrong informed the Ombudsman there is nothing in DHS rules, manual or other writing that discusses what information or documents are to be reviewed by supervisory staff before signing form 470-3186.

Riedel told the Ombudsman in his ten years as area administrator he could not remember how many times he approved children for independent living. He did not recall ever not approving a child.

The Ombudsman asked Riedel what if the worker does not get the area administrator’s approval on the form and the child is moved to independent living anyway. Riedel answered, “Well, it would certainly be some breach of procedure.”

We’d probably investigate it and find out why that occurred and depending upon why that occurred, whether that occurred, whether it was a timing issue, just a complete disregard for the rules. You know, that might govern how you actually dealt with that. I mean, it could result in some disciplinary action.

The Ombudsman asked Nelson and Armstrong, “What is the consequence if the form isn’t signed before the child goes into independent living?” Nelson answered, “I don’t know that there is any specific consequence.” Armstrong added, “I would say there’s no specific consequence. And that would be the supervisory chain of command if proper procedure wasn’t followed.” Nelson continued, “To take a look at what happened and why wasn’t it, and determine if action needs to occur.”

No Supervisory Approval in Reggie’s Case

DHS has no record that a form 470-3816 was completed and signed to approve Reggie’s move to independent living. Ford told the Ombudsman she was not familiar with the form and does not believe she completed one in Reggie’s case. Nelson checked the FACS system and found no entry showing approval by a supervisor.

When asked if Reggie received the approval of the area administrator, Riedel replied, “I have no idea.” He said the only one who would know is the worker, who has the responsibility to pass the form through for his signature.

Ford told the Ombudsman she alone made the decision to move Reggie from Bracewell Group Home to apartment-based independent living.

Q. Your supervisor at that time, did he or she review that decision?

A. No, I don't believe so.

Q. Did anyone else at DHS review the decision?

A. No, I don't believe so, no.

Q. Do the rules or the manuals - do they require a supervisory review before you place a child in apartment-based independent living?

A. No, because it would be a placement; not that I'm aware of.

Issue 1(c): Whether DHS adequately planned for Reggie's possible failure at independent living?

Conclusion:

The Ombudsman finds Ford did not plan for Reggie's possible, even likely, failure at independent living. She had no workable back-up plan. When Reggie failed ABIL two weeks before his 18th birthday, he had no place to go other than a youth shelter. There had been no referral to DHS or PCHS for adult services. There was no alternative residential placement lined up.

The Ombudsman finds Ford should have developed and documented a backup plan that included an earlier referral to adult services, as well as an alternative, "just in case" placement.

And because Reggie had been diagnosed with borderline MR and had tested several grades below grade level, and had demonstrated an inability to keep himself safe and manage his own affairs, the Ombudsman also finds Ford should have explored legal guardianship for Reggie to take effect after his 18th birthday.

Reggie's Intention at Age 18

Ford told the Ombudsman she believed Reggie would struggle but would make it in independent living. She said she believed he would sign on for voluntary foster care at age 18 and continue to receive services until he graduated from high school in May or June 2002.

According to Ford, children older than eighteen "can sign themselves in voluntarily if they're willing to remain in foster care." Ford said she spoke with Reggie about a voluntary agreement when they spoke about independent living.

Q. Did you ask him if he wanted to sign?

A. I got the head bobby yes, I understand, yes, I will do that. So, again that was an assumption. But you get used to these kids, and you think you're making communication with them.

When asked if she subsequently tried to get him to sign a voluntary agreement, Ford told the Ombudsman, "I didn't have a foster care placement for him to go to, and I assumed he was going to Meyer Hall [juvenile detention center] because of the delinquency."

Ford told the Ombudsman when Reggie moved to his apartment she still thought he would sign on.

Wolfe told the Ombudsman he believed Reggie intended to "sign on" and accept voluntary foster care after age 18. Wolfe said that was his presumption up until February 2nd when it was decided that Reggie could no longer stay in independent living."

No Back-up Plan

When asked if there were an obligation on the part of a foster care worker to come up with a back up plan in case the child fails independent living, Nelson said:

I would expect that would be part of what the foster care worker and the independent living care worker, that's partly what they're looking at... I was thinking along the lines particularly of what we need to put in place to reduce the likelihood, what kinds of support the youth needs to minimize the degree to which that would happen.

The Ombudsman asked Arndt, "Once your organization makes a recommendation to go to ABIL and the DHS foster care worker approves, then if the child fails, who plans for the failure?" Arndt said DHS. He said YHMA lacks the expertise to plan the next step. He said his agency relies on DHS to say, "Here's the menu of services that are available to this kid next."

Wolfe told the Ombudsman he does not remember his exact conversation with Ford, but the essence was: "I just had a conversation with Reggie, and he doesn't feel safe in the program." Wolfe said he asked Ford to find another placement for Reggie. According to Wolfe, Ford "was in agreement that this needed to be done, so she was going to go to work on something else for Reggie." When asked if she specified what else she was going to work on, Wolfe said, "Not at all, no."

The Ombudsman asked Beamer if he knew whether Ford had a backup plan in case Reggie failed ABIL. Beamer said, "I would say not, unfortunately." The Ombudsman then asked, "What would have been a good back-up plan?" Beamer replied:

Well, knowing Reggie's mental - Well, I guess his mental disability, I could call it, without calling him mentally retarded, I guess. But just knowing that, and knowing he was an 18-year-old in a 13, 14-year-old body, and that maybe this - He wouldn't be able to make it in independent living, knowing or checking into some sort of adult services, either for people that, you know, are maybe mentally impaired a little bit, or you know, need supervision, I guess, need supervision from others so they don't get themselves in trouble, something like that, some sort of program like that.

Beamer guessed one out of five males and three out of five females succeed in ABIL.

Ford told the Ombudsman that after Reggie failed in independent living, she "struggled" to find another placement for him.

He failed in the apartment, and we struggled to find placement for him, and I couldn't get him back out to campus. There wasn't an opening. I couldn't place him in shelters because he was 18. So it was a scramble and an awful way to transition him.

When asked what was her plan should Reggie fail independent living, Ford replied, "Return him back to campus." She said when she learned YHMA campus had no opening then her goal was to keep him at a shelter until there was an opening. She said she did not know at the time youth shelters would not keep him past age 18.

Ford told the Ombudsman she asked YHMA if Reggie could return to campus, but "they didn't have any openings at the time." She said she thought he was going to be held at Meyer Hall, which would have given her more time to "figure out the next step."

In all this time when he was failing in his apartment, the shelters won't take him after eighteen, and you hustled to find a place for him to go. I could have placed him back at Youth Homes. That would have been perfect. They had no openings. He'd had several issues of delinquency. I thought I was going to be safe by him going to Meyer Hall that we could figure out the next step. Those were never filed, and he walked.

Ford said she spoke with Reggie after his discharge from ABIL, and he indicated he wanted to return to YHMA campus. After she discovered YHMA had no opening and the shelters could not keep him after age 18, she told Reggie she was "going to have to place him in the adult unit."

According to Ford, Reggie was "not real receptive to anything at that point."

He started - when he was living in his apartment, he started not coming in for curfew and not following the rules and in his own little way was finding, you know, a lot of freedom out there. Started hanging out down around the river and really stepped into a dark side; was befriended by, I'm sure, several street people. His \$1,200 was gone in about a month and a half. But he liked, you know, the excitement of that. He thought that was fun. And he was using, was drinking, and I'd hear from [him] periodically. He'd call to tell me where he was at, and I would tell him that that's not a life. You can't live like that. And he'd revert back to the childhood, "You're right, you're right, you're right, I'll come in." But he wasn't interested in that.

Ford told the Ombudsman if she had it to do all over again she would have saved a spot for him at YHMA campus.

Jansen told the Ombudsman in the event of Reggie's failure at ABIL the only options YHMA had was move him back to campus or Bracewell assuming they "had a bed open." He also said, "The only other thing we could do would be, if it was previous to 18, a shelter, get him involved with those, and then still actively work on the adult services."

The Ombudsman asked Jansen, "Did you discuss possible failure with Ford?" Jansen answered, "I - I think she knew Reggie as well as we did that that was definitely in the realm of possibilities for him, and, again, I guess her spot would be the adult services, getting him that as a back-up."

The Ombudsman asked Arndt if a child could return to group home or campus after being discharged from ABIL. Arndt said, "Going backwards for a kid is very difficult, but we on a regular basis will give a kid a booster shot, try to bring him back to Bracewell, usually not on campus."

Wolfe told the Ombudsman he does not believe Reggie would have been allowed to return to Bracewell or campus, even if he wanted to, because he was "too much of a danger to himself or others" and he needed "more care than we could provide him at that time."

No Exploration of Guardianship

The Ombudsman asked Nelson and Armstrong if DHS had any policy directing DHS foster care workers when or under what circumstances they should seek a guardian for youths who are aging out of foster care. Armstrong replied, "There were no instructions or requirements during the time period in question." And according to Nelson, there are no instructions or requirements currently in place.

Deb Thompson, Reggie's adult services case manager from Golden Circle Behavioral Health, told the Ombudsman if she had been working Reggie's foster care case she would have done certain things to transition him to adulthood and adult services. She said she would have explored SSI, residential placement, case management, continued psychiatric services, vocational services, and guardianship.

In Thompson's "Individual Comprehensive Plan," completed March 28, 2001, she noted, Reggie "is interested in the possibility of obtaining a guardian, and this is recommended by this case manager." The Ombudsman asked Thompson to explain how Reggie might have benefited from guardianship.

The benefits would be that they would - number one, he would have had another adult advocate working specifically and only for him, which - and not a professional, which I felt was something that he needed. He had no family support. He had no one, and I felt it would be a benefit to him to have somebody that was interested in him and him alone and his needs and wants. Secondly, I was concerned about whether he could make decisions at this point. Whether he needed to live in residential care, live independently with a guardian in place, and they would have the final decision on those areas.

When asked what the process is for setting up a guardianship, Thompson responded:

For us, number one, we have to find a guardian. Unfortunately, we don't have a list of people that are volunteering to be guardians. You know, it's a matter of - I've called AMI, Alliance for the Mentally Ill, asked them to put it in their newsletter, you know, if anyone was interested in being a guardian for someone. Actually talking to other professionals that maybe not work for this agency or people you know that are guardians for somebody else, would they be interested in being a guardian for another person. There's no formal listing of volunteers who want to be guardians. If we find a - somebody who is willing to do guardianship - We have used Drake Legal Clinic to set up the guardianship or Legal Aid of Polk County to set up the guardianship.

Thompson said she made some effort to identify a volunteer to serve as a guardian for Reggie, including calling the Alliance for the Mentally Ill, but did not find anyone. The Ombudsman asked Thompson, “What’s the likelihood that you would have found a guardian for Reggie?” She replied, “Well, I think it would have happened at some point.

Ford told the Ombudsman she did not think Reggie needed a guardian. When asked why, she replied, “In Polk County if folks get a guardian, it’s almost impossible to get rid of them.... If a person performs, you know, way above expectations and doesn’t need that guardian, it’s almost impossible legally to get rid of that guardian.”

The Ombudsman asked Ford if she thought Reggie could have benefited from a guardian. She said:

A guardian can provide some direction for folks. But the way the laws read in Iowa, folks have to be really handicapped for a guardian to be beneficial for them. He could sign himself out of any hospital. He could sign himself out of any placement. A legal guardian can’t make him do anything. So at that point, no, it wasn’t a paramount benefit for him.

...

But I haven’t seen a lot of them that really advocate for them unless they’re really low-functioning. They have to determine whether they need medical services, if they, you know - I mean, if they need to have, you know, their thyroid removed or something, they would sign the documentation for that to happen. But my pool of guardians have not been all that helpful for them.

According to Osby of PCHS, whether a child needs a guardian at age 18 is an issue that is regularly addressed by the Transition Committee. “[I]t’s one of the identified issues that we talk about with the team there is if this child, when they turn 18 years old, is going to need a guardian. And then we talk about how that can be established or what can be done.”

Kathryn Miller, former Executive Director at Youth Law Center,²⁶⁹ told the Ombudsman she has set up guardianships for youth who have transitioned out of foster care. When asked about DHS’ role in exploring guardianship for children about to age out of foster care, Miller told the Ombudsman she thinks “everybody has an obligation to sit down and talk about that.” When asked when guardianship should be explored, under what circumstances, she said, “If I’m dealing with a low-functioning kid who is not just a kid who makes bad judgments. . . . [W]hen you are dealing with . . . a person who is organically deficit and really [lacks] a mental capacity to make appropriate decisions, then I think you really have to.”

Taylor told the Ombudsman she does not recall any discussion regarding the possibility of establishing guardianship for Reggie. “I don’t recall that being discussed. I’m not sure that there was anybody available that would have – I’m not sure whether it’s possible for the Department of Human Services to continue it as a guardian for an adult. That I do not know. I’m not aware

²⁶⁹ The Youth Law Center, located in Des Moines, Iowa, is a non-profit law office for children and children’s issues. Its staff of attorneys and caseworkers help victimized and troubled children. The majority of the center’s work is representing children in juvenile court proceedings and occasionally representing children in divorce cases or other cases involving custody or visitation issues.

that there was anybody else that would have been available as far as family members or friends of Reggie that I would have been able to assume that kind of a role and responsibility for him.”

When asked if exploring the possibility of guardianship was a responsibility of the guardian ad litem, Taylor said she did not know. She believed her legal responsibility as a guardian ad litem ended when Reggie turned 18 years old. Taylor stated, “One of the things that need[s] to be done, a little clearer defined role of how far the guardian ad litem has to go once this child turns 18.”

Issue 2: Whether DHS’ decision not to engage the Polk County Transition Committee was unreasonable?

Conclusion:

The Ombudsman finds Reggie’s case was never presented to the Polk County Transition Committee. The Ombudsman concludes the decision not to consult with the Polk County Transition Committee was unreasonable given the circumstances in Reggie’s case.

Ford, as Reggie’s foster care worker, should have referred Reggie’s case to the Polk County Transition Committee when Reggie turned 17. Involving the Transition Committee would have benefited Reggie. It would have given the Transition Committee an opportunity to work with Ford in developing an effective transition plan for Reggie.

Had Ford engaged the Transition Committee, information about Reggie and his eventual need for adult services would have been communicated to PCHS, the agency responsible for providing or coordinating those services. And Transition Committee members would have had the opportunity to offer advice and opinion on how best to plan and manage Reggie’s transition from foster care to life on his own with or without adult services.

Had Ford engaged the Transition Committee before Reggie entered Bracewell Group Home or even before he entered ABIL, its members could have assisted her in (1) developing an adequate back-up plan should Reggie fail independent living, (2) making the referral to the Polk County DHS Adult and Family Services Unit, (3) identifying particular adult services Reggie could utilize while in voluntary foster care, (4) collecting information and diagnoses necessary to establish eligibility for adult services, (5) making referrals for residential placement and other services, (6) exploring the possibility of developing an individualized treatment/service plan, and (7) exploring the possibility of establishing legal guardianship.

Purpose and Function of the Polk County Transition Committee

According to Dale Schmitz, DHS Service Area Administrator, two supervisors, Lucy Watson and Carolyn Smith, were instrumental in the development of the Transition Committee. Watson, supervisor in the MRDD unit, said they worked with Susie Osby and other staff at PCHS in setting up the Polk County Transition Committee (Transition Committee) in 1999.

According to Susan Osby, Mental Retardation and Developmental Disabilities Program Planner for PCHS, the Transition Committee was formed “based on the concern that we had individuals that were either graduating from high school in June or were turning 18 that we were receiving

phone calls in our office, the day before, the week before when a person was going to be transitioning.” She told the Ombudsman, “We felt that we needed to call together all those players and work on a process to be able to help with being able to identify the children that were going to be leaving foster care or also who were turning 18 that would be entering the adult system.”

Watson told the Ombudsman they wanted the Transition Committee to be a resource to foster care workers who may have questions or difficulties transitioning a child from foster care. She said her goal was to make the transitioning process “less terrifying” for workers.

And I’ll tell you what makes it so terrifying: With nearly every other - Well, let me not get to pie-in-the-sky here. With many services, you can do some planning ahead, and when you have planned and made an arrangement, you can have some certainty that that arrangement is going to carry through ...

It’s not that way with children transitioning. They’re 18, and you’re done. You can’t - You don’t have anything that you can use to keep that child safe. You don’t have any way to bring that child back. And that’s the frightening part of it.

So that no matter what you’ve planned, if it falls apart right before or right when that child is 18, you may not be able to fix it. You may not be able to do anything.

In his letter to the Ombudsman, dated August 17, 2001, Lynn Ferrell, PCHS Executive Director, described how the Transition Committee functions at its meetings.

The worker would come to the meeting, with the case file, and present to the team of individuals there. There are two individuals from DHS, and a representative from PCHS, plus the caseworker at the meeting, and any other individuals that the caseworker may invite. An overview is presented on each child’s age, diagnosis, current placement, family situation, etc. Some of the cases are very general in nature and don’t take a long period of time to discuss, but most of them are difficult situations where a lot of discussion and brainstorming needs to occur. The committee identifies tasks which the caseworker needs to follow-up on and the worker reports progress to the committee at subsequent meetings. A log is kept by DHS with the information on each individual discussed, and a list of follow-up items are documented. If an individual needs to be followed-up on, the case is placed on a schedule for two to three months later.

Staley, supervisor of the Adult and Family Services Unit, told the Ombudsman she regularly attends transition team meetings. She said other participants include: DHS Regional Policy Specialist, DHS MRDD Unit Supervisor, and someone from PCHS. She said others who sometimes attend include school personnel, the child, or the child’s guardian.

Types of Cases Referred to the Polk County Transition Committee

There is no requirement under Iowa law nor any DHS rule or policy for foster care workers to bring cases to the Polk County Transition Committee (Transition Committee). According to Staley, supervisor of the DHS Adult and Family Services Unit in Polk County, engaging or consulting the Transition Committee is up to the worker and the worker’s supervisor. When

asked for the “normal” transition process, Staley told the Ombudsman “if a worker believes a child will need services after age 18 they can bring it to this transition group.”

When asked what kinds of cases should the workers bring to the Transition Committee, Watson said, “It would be any child who is going to transition into adult services at age 18.” When asked what kinds of cases should the workers not bring, she said, “If a worker and a supervisor felt, for instance, that a child were not going to need adult services.” However, Watson cautioned “to know or not to know, that’s a very gray area and there’s a lot of confusion and discussion about who might be able to receive services.”

Schmitz told the Ombudsman the Transition Committee is not meant for all children “aging out” of the foster care system. He said it’s for “those kids that have a certain disability,” those with mental retardation or mental illness. Furthermore, according to Schmitz, it should only be for those who do not have an adequate transition plan in place. He said workers should know that if there is not an adequate transition plan in place, they should go to the Transition Committee to get it developed.

When asked what would be the harm in presenting all kids with or without an “adequate” transition plan in place, just to review and document, Schmitz said, “I don’t know if there would be any harm. It’s a question of people power and having the staff to do it.”

Watson recognized that workers have “little time for everything” and “some workers and some supervisors of those workers feel that the worker may have transitioned enough kids that they know what they’re doing and how to do it.” However, Watson would encourage supervisors to send all transitioning cases to the Transition Committee.

When asked why she would want workers to bring children who have indicated they do not want services after age 18, Watson said, “My view would be, at least the best we could do is offer the services, let them know what exists.”

She explained even if the child does not change his/her mind and agrees to voluntary foster care at 18 the child could still be eligible for certain adult services. When asked for an example of an adult service that a youth in voluntary foster care after 18 might utilize, Watson cited county-funded “para transit services.” She also said she knows of several cases where the child signed on for voluntary foster care, was in residential placement, and the county and State agreed to share the costs of services.

Osby told the Ombudsman foster care workers should bring cases of children to the Transition Committee even if those children have indicated an intention to sign on for voluntary foster care. She said children can and do change their minds about voluntary foster care. She said there are adult services that PCHS provides that could benefit those children who do sign on, depending on their diagnoses and needs. For example, PCHS could arrange “supported community living skills” training. According to Osby, a supported community living counselor, pursuant to an individual program plan, could visit the client in his/her home for so many hours per week to teach checkbook writing skills and other daily living skills. Osby echoed what Watson said about MR waiver services - - if the client has an adult MR diagnosis and qualifies for MR waiver services, PCHS would be involved in funding and facilitating those adult services even if the client is in voluntary foster care.

Osby informed the Ombudsman use of the Transition Committee by DHS workers has increased.

I can just tell you that we met on a monthly basis and until last, I guess, it was last October [2001] we were meeting on a monthly basis. Starting in October we went to starting to meet twice a month, because of the demand of workers realizing the necessity to come to the Transition Committee and for some things that had happened that they felt like they needed to know more about what needed to be done for a person for transition.

When Cases Are Referred to the Polk County Transition Committee

According to Staley, “in an ideal world with small caseloads,” the best practice would be to bring a child’s case to the Transition Committee by the time the child is age 17.

It has always been ...my understanding that at age 16 the county wanted you to begin transition planning for children’s services so that the county could better financially plan for services that might be needed. So that was always my understanding that workers started working on that at age 16 and that might mean bringing them to the transition committee at 16, 16 ½. By 17, you certainly should have taken them there, by my understanding of what the county wanted ... So my idea would have had a child come to the transition meeting by 17 at the latest, begin talking about it, about what services might be needed, to start telling the foster care worker some of the information that we were going to need, to give them time to plan for it.

According to Maria Walker, Mental Health and Substance Abuse Program Planner for PCHS, DHS workers should engage the Transition Committee early. She told the Ombudsman in some situations three months before age 18 is not early enough. Walker said there is “a growing population of kids who are tougher to meet their needs” and they “need more time to work with those individuals.”

Traditionally these are kids who maybe have had a lot of behavioral issues growing up and then have diagnosed of a mental illness and trying to fit those kids’ needs are becoming more difficult and that’s something in our system we need to address. And we need more time to work with those individuals, look at an individual’s needs.

Osby told the Ombudsman there are choices of services, “lots of options,” out there. She said, “[W]e have six different case management agencies in Polk County, we have about seven different residential providers, about eight different employment providers.” She said “that’s what we want people to be able to do, choices. But without doing it early, these kids can really get in trouble.”

The Ombudsman asked Watson, “Well, what I wanted to ask you about is one of the messages I think we got [from PCHS] was that if you go to the transition committee early enough with a particular child who is about to age-out who was going to need adult services, that that would allow the committee more time to come up with an individualized treatment plan?” Watson answered, “Absolutely, yeah.”

To have someone come in a year in advance, that’s what we really like to have them do, would come in a year in advance. There are some things - And also, it’s not - it’s not terrible pressure then. If you know you need to get a new MRDD or MR evaluation of that, they you’ve got time to get it.

“Transitioning Child to Adult Services” Form

Watson told the Ombudsman she developed a one-page “Transitioning Child to Adult Services” form, which has been used since the second or third month of the Transition Committee’s tenure. Staley described the form as a guide, so participants at the meeting know what they “need to talk about with this child, what services are necessary for future.”

The one-page form has seven columns, with the following headings:

- Staffing Date & Who Came
- Legal
- Diagnosis
- Placement
- Services Receiving
- Services Needed & Can Receive as an Adult
- Who needs to do these things by what date

Each column contains one to six questions, with space to write in answers.

Watson said the form is usually completed by the supervisor of the MR/DD Unit at the Transition Committee meeting. The supervisor retains the original for future reference and a copy is given to the foster care worker. Watson did not know of instances where a worker would fill out the form for a child if the child’s case was not being referred to the Transition Committee.

There’s no way they could fill it out, because part of the filling out is you need input from the adult services supervisor or from the County. That’s the whole reason you’re there. You know, if you’re the worker, you know the foster care system. Or you know - Hopefully, you know the foster care system. So a lot - They can - They couldn’t even finish doing the placement part, because they wouldn’t - They wouldn’t know enough about, for instance, level of care needed. RCF; those would not be terms that would be familiar to most workers. So they - This form does not work unless you’re in a group with people who have information. It doesn’t work.

Staley told the Ombudsman the questions on the form are not designed for the foster care worker to answer alone. She said the answers come from the meeting participants, from the people who have the knowledge and expertise. She said the foster care worker may answer some of the questions, and so may the parents or the guardian. As an example, Staley said the many times the question, she or Osby will answer the questions pertaining to “Services Needed & Can Receive as an Adult,” because the foster care worker “doesn’t know all the services that are available in the adult system.”

Decision Not to Take Reggie’s Case to the Transition Committee

When asked about Transition Committee meetings through PCHS, Ford said she did not contact the Transition Committee because she thought Reggie was “set up for services” and because she made all the necessary referrals when he failed independent living. She said she did everything she “would have been told to do in the transition meeting.”

Ford told the Ombudsman she saw no benefit in engaging the Transition Committee.

I had, you know, some insight on Adult Services because I'd worked in the adult unit for three years so I understood how the system worked; but the other workers didn't understand adult placement, legal settlement, and they just weren't savvy in that arena at all and felt very naïve, if you will, on how best to serve these kids. And they didn't get any answers when they would take them to the transition meeting. What they got was 20 minutes of giving information and, you know, good luck. So it was not fruitful at all.

Ford told the Ombudsman she views the Transition Committee meeting as "more of an informational meeting" to let PCHS know that a child is probably going to be interested in adult services."

Those meetings are strictly informational. Nothing is really decided. It's, you know, have them apply for Title XIX, have them apply for Social Security Disability, make referrals to placement, this is what I would recommend.

The Ombudsman asked Ford, "Were you told what cases or what kinds of cases to bring?" Ford replied, "The only guideline was if you thought they were going to need Adult Services and thought that they would be eligible."

Ford said she has taken some cases to the Transition Committee. She said when she signs up to take a case to the Transition Committee, she makes a referral to the Adult and Family Services Unit at the same time.

The Ombudsman asked Ford for an example of a case that she took to the Transition Committee and then for an explanation as to why she took that case and not Reggie's. Ford replied, "The ones that I have taken to the transition team, I know, either have their high school diploma or are not going to continue with services, that are so tired of being in the foster care there is no way they're going to voluntarily sign themselves in."

The Ombudsman obtained from DHS' case file on Reggie a copy of an undated, one-page, partially completed "Transitioning Child to Adult Services" form.²⁷⁰ Reggie's name is handwritten at the top of the form. Ford told the Ombudsman she is "almost sure" she completed the form after she made the referral to the Adult and Family Services Unit, sometime in early-February 2001.

Ford said someone in the Adult and Family Services Unit probably asked her to fill out the form, for the purpose of establishing a "paper trail." When asked if it were possible she asked Ford to complete the form after receiving the adult services Intake/Referral form, Staley said, "I do not remember that. I remember there was something attached to the original intake that was on my desk, and now I believe it was the transitioning form that was attached to it."

The form completed by Ford contained minimal information. Under "Staffing Date & Who Came" and "Who needs to do these things by what date," Ford left blank. Under "Legal," she wrote, "Case will close on 2/14/01." Under "Diagnosis," she checked "MI" and wrote, "ADHD Reactive Attachment Dx." Under "Placement," she answered, "Yes" to question, "Needs placed at 18?" She answered, "limited," to "Independent living plan done?" After "Written placement

²⁷⁰ See Appendix N.

referrals already made,” she left blank. Under “Services Receiving,” she wrote, “needs to apply.” Under “Services Needed,” she wrote, “housing” and “vocational.”

The Ombudsman asked Ford why she wrote “limited” in answer to question, “Independent living plan done?” Ford replied, “[B]ecause he had had limited independent living. He had, like, ten days.” In response to the Ombudsman questions, Ford confirmed that her choice of the word “limited” referred to Reggie’s experience in independent living and not to the planning that she had done.

When asked if there were any resources not used or mistakes made in Reggie's case, Staley told the Ombudsman, "Well, obviously a resource that wasn't used was the Transition Committee." Staley did not feel she was able to answer “if there were mistakes that were made.”

Staley told the Ombudsman even if Reggie would have signed on for voluntary foster care he may still have qualified and received adult services funded by PCHS. According to Staley, PCHS could have provided supported community living services for Reggie to help him with budgeting, grocery shopping, and other daily living skills. And, according to Staley, if Reggie’s IQ were under 75 and he otherwise qualified for MR waiver services, then PCHS could have offered him supported community living services, vocational training, and housing services.

Issue 3: Whether DHS’ decision not to engage the Adult and Family Services Unit earlier was unreasonable?

Conclusion:

The Ombudsman finds Ford made the referral on Reggie to DHS Adult and Family Services Unit sometime between February 2 and February 14, 2001, not January 29, 2001 as she claims. The Ombudsman concludes the decision not to engage the Adult and Family Services Unit earlier was unreasonable.

Ford waited until Reggie failed at independent living before making a referral to the Adult and Family Services Unit. She waited because she thought Reggie would sign on for voluntary foster care at age 18. She waited because she did not think he would fail independent living so fast. She also waited because she knew the adult system and she knew what needed to be done. When she finally made the referral, she did not communicate the urgency of Reggie’s situation to the supervisor of the Adult and Family Services Unit. As a result, the case was not immediately assigned to the adult worker as high priority. The adult worker sent his regular, new client appointment letter, scheduling an interview with Reggie to discuss eligibility and services, twelve days from the date of the letter and thirteen days from the date of case assignment. Meanwhile, Reggie was left to stay in shelters until arrangements could be made for more permanent housing and other services.

Ford should have made a referral to DHS Adult and Family Services Unit more than one month before Reggie turned 18. Ford should not have waited for Reggie to fail independent living or change his mind about foster care. She should have made the referral earlier because she knew he could fail, she knew he could change his mind, and she knew he was going to need adult services sooner or later. And she should have known the

adult services workers would need time to prepare and arrange for adult services, to ensure a smooth, seamless transition.

Had Ford made the referral to the Adult and Family Services Unit three months or even one month before Reggie turned 18, Reggie would have benefited in a number of ways. He would have had an opportunity to meet with the adult services workers at DHS and PCHS, and develop relationships. He would have gained more knowledge about the adult system, what services were available and how to access those services. The adult services workers would have had an opportunity to help Ford transition Reggie from independent living, if need be, to some other, more structured housing arrangement. The workers would have had an opportunity to arrange/facilitate other kinds of services -- like adult SSI benefits, supported employment, vocational training, supported community living skills training, and psychiatric services. The workers would have also had an opportunity to assist Ford in securing an adult MI diagnosis for Reggie and, perhaps, an MR diagnosis, which would have expanded Reggie's housing opportunities and provided an additional funding source for housing and other services.

Had Ford made the referral before Reggie entered ABIL and had the adult services workers helped her in arranging an adult residential placement in the event Reggie failed independent living or, at age 18, decided not to stay in foster care, Reggie's time in shelters, as well as his anxiety from not knowing where he was going next, would have been reduced considerably. An earlier referral would have provided Reggie more stability, a greater sense of safety and security, a clearer view into his future, and, in the words of YHMA's Treatment Director, "some semblance of hope."

When Referral to Adult and Family Services Unit Should be Made

The Ombudsman asked Jone Staley, Supervisor of DHS' Adult and Family Services Unit, if DHS has any policy on when youth workers are to make written referrals to her unit. She said, "No."

When asked what can be done to prepare for transition to adult services before the child reaches age 18, Staley told the Ombudsman, "You can do the CPC Application, the central point of coordination ahead of time cause that helps determine legal settlement and which county is financially responsible for services." Staley also said the psychiatrist could be contacted to find out if the child's diagnosis will carry over into an adult diagnosis; if so, they "can more adequately refer to more providers." Staley said since the county pays for private case management for up to three months prior to the child turning 18 years old, DHS "could have contacted the county and asked for that assistance."

John Hoehne, the Polk County DHS Adult Services worker assigned to Reggie's case, told the Ombudsman the first thing he has to do is establish eligibility. He said part of the eligibility process is getting the psychiatric records. Hoehne said his handling of Reggie's case from time of referral to determination of settlement and then placement was much faster than usual. While Hoehne did not want to speculate how he would have handled Reggie's case differently, had Ford referred it earlier, he believed an earlier referral would have been beneficial. Hoehne stated:

I could have begun working with him earlier, like I said, and begun working on developing a relationship earlier. . . . That would have involved an increase in the time we had together. That could have been very good, or it could have been very

bad if we hadn't gotten along. But the bottom line is it would have provided more time.

Instructions by Supervisor of DHS MRDD Unit

While not part of DHS Manual, former long-term DHS employee and there are written instructions for DHS workers and supervisors prepared by former DHS employee Lucy Watson (who was a supervisor in the MR/DD Unit and a founder of the Polk County Transition Committee), detailing what needs to be done to prepare foster care children for adulthood and adult services. She told the Ombudsman she first circulated the one-page instructions, "How to Get Adult Services for Child Turning 18," in 1999, within two or three months of the formation of the Polk County Transition Committee.

Watson's "How to Get Adult Services for Child Turning 18" is divided into four parts or sections: Plan Ahead, Eligibility for Services, Money & Medical, and Legal Issues. [See Appendix D]

Under the "Plan Ahead" section, the major points are:

- Request Independent Living Assessment at age 16
- Send "Transition Letter" to parents one year before child turns 18
- Staff your case "a year ahead" with the Transitioning Committee "for ongoing consultation"
- Know the child's birthdate, IQ, current mental health diagnosis, and providers' recommendations regarding level of care needed
- Make written referral to Adult Services Unit before child turns 18

Under the "Eligibility for Services" section, the major points are:

- Establish legal settlement by completing the CPC 30 days before child turns 18, "and giving it to Jone Staley, the Adult Services supervisor"
- Check IQ and mental health diagnosis
"If these are not recent, or if the MH diagnosis is one given to children but not adults, they many need to be tested again within 6 months of their 18th birthday. This is extremely important since funding for most adult services depends on the diagnosis. A well-documented MR diagnosis must be clearly established before the child turns 18, or funding may not be available."

Under the "Money & Medical" section, the major points are:

- Refer child to Benefit Team Services before age 18 to facilitate adult SSI benefits
- Refer to IM for redetermination of medical benefits

The section on "Legal Issues" asks: "Will child need a guardian at age 18?" It further advises: "Talk with providers and parents. If so, can the parent do it, or is a volunteer guardian needed?"

If the child is in DHS custody or guardianship this may be done at public cost through the county attorney's office."

The Ombudsman asked Watson about the bulleted statement in the instructions which states, "Make written referral to Adult Services before the child turns 18." When asked why, Watson answered:

They get hundreds of cases in that unit and so you want to have the referral there so when the child turns 18 . . . you want there not to be a break, if possible.

. . .

[O]ne of the reasons we wanted to have this group [Polk County Transition Committee] is because the county is represented there, in that group. And it's such a complex thing. Every case is a whole different kettle of fish from every other case. And so there might be some little thing particularly with that case, whatever it was, that it would be good for the county to know about it earlier, so they could plan ahead, so that's why we had that county representation.

As for when would be a good time to make the referral, Watson said "one month before might be the best time. It depends on what's going on with that unit."

The Ombudsman asked Watson about another bulleted statement under the "Money & Medical" section which reads: "Refer child to Benefit Team Services before age 18 for facilitation of possible adult SSI benefits." In response to why that referral should be done before age 18, Watson said:

Because they may be very well getting SSI when they're in foster care placement, but they may or may not get SSI after they're 18. It will depend on, is there an adult diagnosis and will it be accepted by SSI. Benefit Team Services are our people who are very helpful with determining, they don't do the determination, but they all used to work at SSI so they understand how SSI thinks, and they're willing to help with the referral for the child getting SSI benefits.

Watson explained the State contracts with Benefit Team Services, and they ensure paperwork "gets done so that then those funds can be collected by the State from the federal government while the child is in placement or so medical can be taken out of that. The funding streams are very complex. And they help ensure that it's done correctly."

When Reggie's Case Was Referred to the Adult and Family Services Unit

Ford told the Ombudsman she completed and submitted the one-page, "Polk County Department of Human Services Adult Service Intake/Referral" form on January 29, 2001. But testimony from Wolfe and Beamer, as well as documents generated by Beamer and Des Moines Public Schools, indicates Ford made the referral sometime between February 2, when Reggie was discharged from ABIL, and February 14, when Ford closed her case on Reggie. [See pages 65 – 67 of Chronology.]

The Ombudsman finds Ford made the referral on Reggie to DHS Adult and Family Services Unit sometime between February 2 and February 14, 2001, not January 29, 2001 as she claims.

Besides making the referral to DHS Adult and Family Services, Ford claims she also made referrals to Westminster House and Mainstream Living for purposes of residential placement. She told the Ombudsman she hand-delivered packets to each of those residential facilities, sometime in January 2001. She said she did not enclose in the packet any cover letters nor signed releases by Reggie in the packet. She also said she did not document the delivery of the packets nor did she remember the names of the two women at those facilities who accepted the packets.

Linda Campfield, Administrator at Westminster House, told the Ombudsman she does not remember getting a packet of information on Reggie before receiving the referral from Golden Circle's Deb Thompson in March 2001. She said any packet delivered in January or February 2001 would have been placed on her desk and she would have created a "referral file." She said she would have created a referral file even if the packet contained no signed release. She said she has no referral file on Reggie other than the file created as a result of Thompson's referral.

LuAnn Wingfield, Administrator of Mainstream Living, Inc., told the Ombudsman Reggie's name is not recorded on her agency's "Referral List" for 2001. She said in order to make the list, the worker or client must submit an application and a release signed by the client. She said if the worker dropped off a packet of information containing information about the client and did not include a signed release, the client's name would not be included on the list. She said, "We can't even have that information without a release." She said her staff would attempt to contact the worker and request an application and a release.

The Ombudsman finds no evidence to support Ford's contention she made referrals to Westminster House and Mainstream Living. There is no record documenting the referrals and Ford could not provide the names of the staff persons at Westminster and Mainstream Living who accepted delivery of the packets. Even if Ford delivered the packets, which is unlikely, the deliveries were ineffective. Neither delivery resulted in a referral.

Ford's October 27, 2000 Case Permanency Plan for Reggie states, "This writer believes Reggie will need continuing support as an adult and will pursue a case manager in Adult Services."

When asked if she checked into adult services, Ford said "no," she "didn't really have to." She said she "knew the services available for children" because she had previously worked in DHS' adult unit. Ford said she "had some knowledge of whether he would be accepted into the adult unit, would qualify for adult services, and what was available out there."

Ford's immediate supervisor Bill Dickey told the Ombudsman he expected Ford to make the referral to the Adult and Family Services Unit by the time Reggie moved into independent living. He said he likes referrals to be made six months before the child turns 18 years old. The Ombudsman asked Dickey, "In Reggie's case, where there was at least some doubt that he might not make it, in this independent living unit. In cases like that, is there a bigger need or a lesser need to get that referral to adult services beforehand?" Dickey replied, "My own, my own opinion is, is that, it's a bigger need."

Ford told the Ombudsman she knew she could have also accessed an adult case manager through PCHS three months before Reggie reached age 18. When asked what she would have done, she said:

Would have made referrals for case managers, take him out and meet him. And it has been my experience they'll come out and have them sign on. But they really

don't do a whole lot with them particularly if they're in a youth setting or if they already have a social worker. They'll come out and visit with them, but they don't do any planning for them.

Ford said she did not contact PCHS three months in advance because she thought "he was going to go into independent living" and would "stay in foster care." Ford said she made a referral to the Polk County DHS Adult and Family Services Unit when she realized independent living and continued foster care was not going to work. She said she did not make referrals to the other case managers through PCHS at that time because it would be quicker to have a DHS adult service worker and she "was in desperate need to find a place for him to live."

RECOMMENDATIONS

The following recommendations are not listed in any order of priority. They are presented in sequential order similar to the subject matter discussed in the “Analysis and Conclusions” section of the report.

The Ombudsman recommends:

1. Develop indicators or measurements for determining if a child meets the independent living eligibility criterion to “refrain from involvement in any illegal behavior,” as provided in DHS administrative rule 441 - 202.9(1)(a)(5). Promulgate rule or amend policy to incorporate indicators or measurements into decision-making.
2. Develop indicators or measurements for determining if a child meets the eligibility criterion to have the “capacity to function outside the structure of a foster family or group care setting,” as provided in DHS administrative rule 441 - 202.9(1)(a)(6). Promulgate rule or amend policy to incorporate indicators or measurements into decision-making.
3. Develop indicators or measurements for determining if a child meets the eligibility criterion to have the “potential to be financially and emotionally independent upon discharge from foster care,” as provided in DHS administrative rule 441 - 209(1)(a)(7). Promulgate rule or amend policy to incorporate indicators or measurements into decision-making.
4. Redesign “Approval for Independent Living Foster Care Placement” Form 470-3186 to include check-off boxes for all eligibility criteria in DHS administrative rule 441 - 209(1).
5. Before completing Form 470-3186, consult with appropriate school personnel regarding the child’s ability to live independently. For children receiving special education services, consult with the child’s special education teacher or IEP review team. Develop a process for consultation and then promulgate rule or amend policy to incorporate the process into decision-making.
6. Before completing Form 470-3186, if the child is receiving mental health treatment or services, consult with the child’s mental health professionals regarding the child’s ability to live independently. Develop a process for consultation and then promulgate rule or amend policy to incorporate the process into decision-making.
7. Before completing Form 470-3186, request a written report from the placement provider giving reasons for recommending or not recommending the child’s movement to independent living; and then promulgate rule or amend policy to incorporate provider’s recommendation into decision-making.
8. Before completing Form 470-3186, consult with the child’s guardian ad litem regarding whether independent living is in the best interests of the child and whether the child is capable of living independently. Develop a process for consultation and then promulgate rule or amend policy to incorporate the process into decision-making.

9. Ensure through revision of current rule, policy and procedure that all decisions to place children in independent living receive a substantive supervisory review prior to placement.
10. Modify Family and Children's Services (FACS) computer case tracking system to include the area administrator's approval for independent living and the date of approval. Require the "approval" in FACS prior to any payments being issued to the independent living program provider.
11. Develop a Transition Committee similar in format, make-up, and function to the Polk County Transition Committee for other Iowa counties.
12. Refer cases of all children who may be eligible for adult services to the appropriate Transition Committee by age 17. Promulgate rule or amend policy to require such referrals.
13. Modify FACS to include "date of referral" to the appropriate Transition Committee.
14. Refer cases of all children who may be eligible for adult services to the appropriate DHS Adult Services Unit by age 17.9. Promulgate rule or amend policy to require such referrals.
15. Develop criteria for determining who may be eligible for adult services, and then promulgate rule or amend policy to incorporate the criteria into the decision-making and referral processes.
16. Modify FACS to include a "date of referral" to the appropriate DHS Adult Services Unit.
17. Develop instructions for workers on when and under what circumstances they should explore the possibility of seeking legal guardianship for children who are aging out of foster care. Promulgate rule or amend policy to include those instructions.
18. Annually report numbers of children entering and leaving independent living, statewide by county. Report number leaving voluntarily and number discharged. For each child discharged from independent living, report reasons for discharge. Assess the data as part of any evaluation of the independent living program or consideration for improving the effectiveness of the program.

APPENDIX

Appendix A – Agency Staff

Appendix B – Flowchart – “Youth to Eighteen Transition Process”

Appendix C – Abbreviated Timeline

Appendix D – “How To Get Adult Services for a Child Turning 18”

Appendix E – Ford’s Narrative Continuation

Appendix F – DHS Memo, Myers to Lacy and Ford, 12/8/99

Appendix G – YHMA Ross Campus Discharge Summary, 10/2/00

Appendix H – YHMA Bracewell Group Home Discharge Summary, 1/15/01

Appendix I – YHMA Bracewell Group Home Quarterly Report, 11/29/00

Appendix J – YHMA Independent Living (ABIL) Discharge Summary, 2/14/01

Appendix K – Polk County DHS Adult Services Intake/Referral Form

Appendix L – Approval for Independent Living Form 470-3186

Appendix M – DHS Manual Instructions for Form 470-3186

Appendix N – “Transitioning Child to Adult Services” Form

Appendix O – Case Permanency Plan, 10/27/00

Appendix A

Agency Staff

AGENCY STAFF

(Positions listed are those held at the time relevant to this investigation)

Iowa Department of Human Services

Mary Nelson	Administrator, Division of Behavioral, Developmental, and Protective Services for Family, Adults, and Children
Laverne Armstrong	Chief, Bureau of Protective Services
Dale Schmitz	Service Area Manager, Central Iowa
Ken Riedel	Service Area Manager, Ames Service Area
Bill Dickey	Supervisor, Foster Care Unit
Karin Ford	Foster Care Social Worker II
Jone Staley	Supervisor, Adult and Family Services Unit
John Hoehne	Service Manager Social Worker II
Lucy Watson	Supervisor, Child Protective Treatment and MRDD Unit
Kathy Hicok	Supervisor, Child Protective Treatment and MRDD Unit
Dan Myers	Transition Planning Specialist
Holli Noble	Transition Planning/Independent Living Program Manager

Youth Homes of Mid-America

Michael Arndt	Chief Operating Officer
Douglas Wolfe	Director of Community Services
Jeffrey Jansen	Cottage Coordinator
David Beamer	Independent Living Counselor
Stephanie Wauters	Cottage Coordinator
Katie Lacy	Counselor

Polk County Health Services, Inc.

Lynn Ferrell	Executive Director
Susan Osby	Mental Retardation and Developmental Disabilities Program Planner
Maria Walker	Mental Health and Substance Abuse Program Planner

Heartland Area Education Agency 11

Dr. James Stumme	Director of Special Education
Sharon Kurns	Supervisor of Instructional Services
Marlys Jordan	Agency Liaison

Des Moines Public Schools

Dr. Tom Jeschke	Executive Director of Student and Family Services
Ellen McGinnis-Smith	Dep. Director of Student and Family Services, Special Education
Lynda O'Meara	Agency Liaison
Frances Graziano	Special Education Teacher
Emily Burroughs	School Social Worker
Deborah Hill-Davis	School Psychologist
Patricia Glassell	Teacher, Lutheran Hospital

Orchard Place – Child Guidance Center

Dr. Donner Dewdney	Medical Director
Jan Ankeny	Clinical Social Worker
Kathy Byers	Therapist
Diane Worick	Social Worker

Iowa Homeless Youth Centers

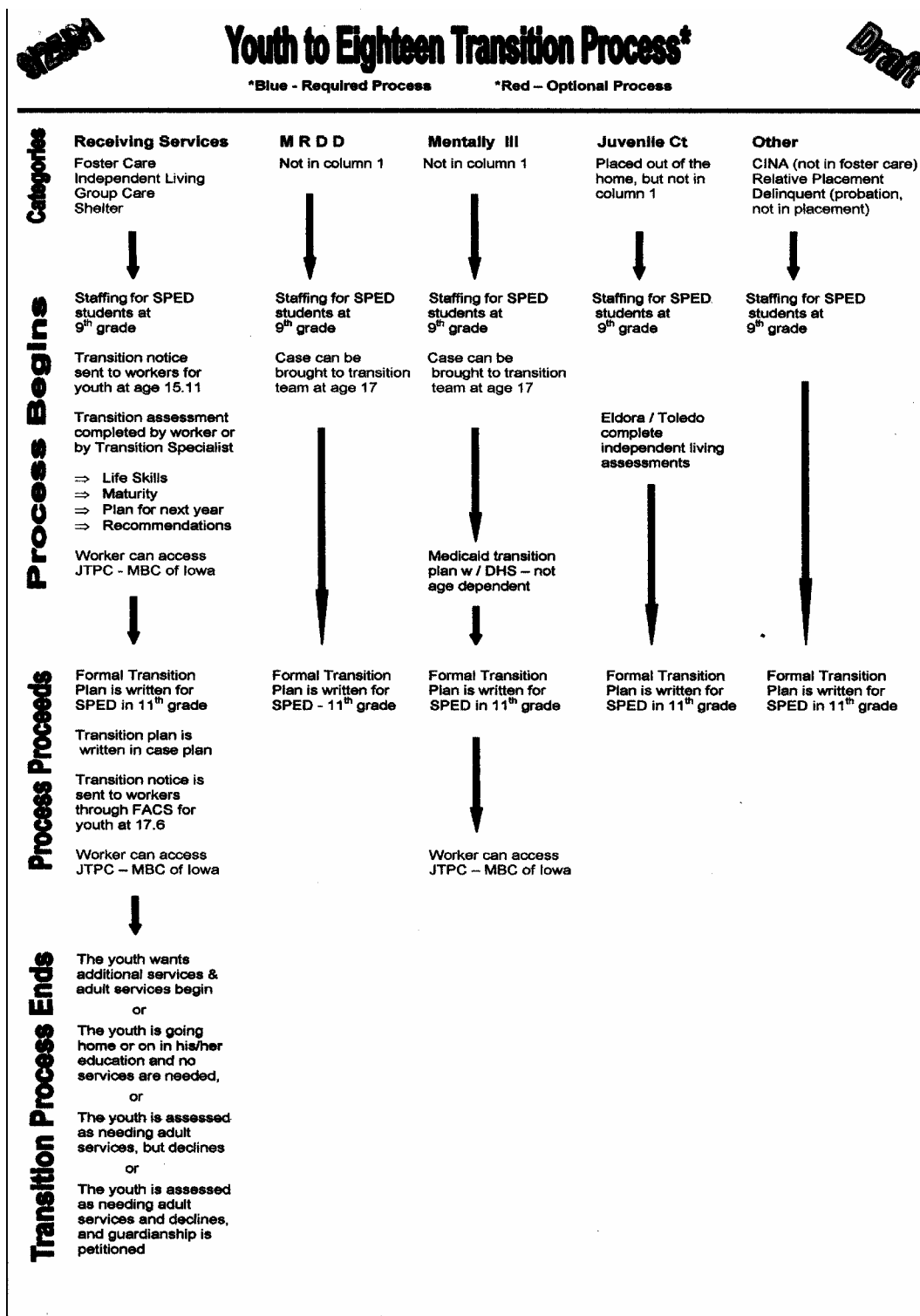
Eve Hickman	Services Director
Diane Martin	Case Manager
Howard Matalba	Outreach Coordinator
Jena Sigler	Resident Counselor
Jodi Steenhoek	Intake Counselor

Golden Circle Behavioral Health

Annie Uetz	Director of Case Management
Deb Thompson	Case Management Supervisor

Appendix B

"Youth to Eighteen Transition Process"



Appendix C

Abbreviated Time Line

Abbreviated Time Line

February 14, 1983	Reggie was born.
June 9, 1988	Adjudicated as a child in need of assistance.
February 9, 1990	Parental rights were terminated.
October 26, 1990	Adopted.
1994	Adoptive parents divorced.
October 17, 1997	Admitted to Mercy Franklin Center.
November 17, 1997	Readmitted to Mercy Franklin Center.
December 5, 1997	Adjudicated as a child in need of assistance.
January 14, 1998	Case assigned to Ford.
April 15, 1998	Admitted to Orchard Place.
October 30, 1998	Admitted to YHMA, Ross Cottage.
December 2, 1998	Moved to Grubb Cottage.
May 17, 2000	Rejected by Girls and Boys Town.
June 2, 2000	Moved back to Ross Cottage.
October 2, 2000	Entered Bracewell Group Home.
October 17, 2000	Rejected by Job Corps.
January 15, 2001	Entered ABIL.
January 26, 2001	Suspended from school for possession of small utility knife.
February 2, 2001	Discharged from ABIL. Moved to YESS.
February 14, 2001	Reggie turned 18. Moved to IHYC, emergency bed. Ford closed case.
February 15, 2001	DHS Adult and Family Services Unit opened case.
February 21, 2001	Reggie brought knife to school. School recommended expulsion.
February 23, 2001	Admitted to Lutheran Hospital's Adolescent Partial Hospitalization Program.
February 28, 2001	Reggie met with Hoehne for "initial appraisal."
March 7, 2001	Case referred to Thompson, Golden Circle Behavioral Health.
March 15, 2001	Admitted to Westminster House.
April 9, 2001	Reggie left Westminster House.
April 24, 2001	Readmitted to Westminster House.
April 26, 2001	Reggie left Westminster House.
May 28, 2001	Reggie's body found in river.

Appendix D

“How to Get Adult Services for a Child Turning 18”

HOW TO GET ADULT SERVICES FOR A CHILD TURNING 18

PLAN AHEAD:

If DHS is guardian or legal custodian, you may have to take responsibility for what would ordinarily be done by the parent. None of this can be left to chance or it won't happen.)

- Request Independent Living Assessment at age 16 by transition staff if child in DHS custody/guardianship
- Send a copy of the Transition Letter to parents at least one year before the child's 18th birthday
- Staff your case a year ahead with the *Transitioning to Adult Services* group for ongoing consultation. (It meets the 2nd and 4th Monday of the month at 3pm in room 204, and includes representatives from DHS Adult Services Unit, DHS Case Management Unit, Children's MRDD Unit, Regional Office Adult and MRDD Specialist, and Polk County Health Services.)
- It's informal, but please know the child's birthdate, IQ (including when & by whom it was done), current mental health diagnosis (also including when/by whom done), and any recommendations providers are making re level of care needed (if placement is an issue.) If circumstances change or you are having problems, you can come back to this group at any time. This is important because if the provider for the services you want is not part of Polk County's network of providers, you will have to submit a written proposal to the Cluster Board at least 30 days before the child turns 18 to see if those services can be approved.
- Staff with parents a year ahead focusing on transition
- Make written referral to Adult Services before the child turns 18

ELIGIBILITY FOR SERVICES

- Establish Legal Settlement by completing the CPC form 30 days before child turns 18, and giving it to Jone Staley, the Adult Services supervisor. (Most children will have settlement here, but this must be verified before the county, which pays for many adult services, will agree to provide them.)
- Check IQ & Mental Health Diagnosis. If these are not recent, or if the MH diagnosis is one given to children but not adults, they may need to be tested again within 6 months of their 18th birthday. This is extremely important, since funding for most adult services depends on the diagnosis. A well-documented MR diagnosis must be clearly established before the child turns 18, or funding may not be available.
- Verify a developmental disability by using the How to Verify Developmental Disabilities form. (You can also use this form if the child does not have a clear diagnosis but you have real concerns about how he will manage as an adult)

MONEY & MEDICAL

- Refer child to Benefit Team Services before age 18 for facilitation of possible adult SSI benefits.
- Refer to IM for redetermination of medical benefits (check with IM to make sure this occurs).

LEGAL ISSUES

- Will this child need a guardian at age 18? Talk with providers and parents. If so, can the parent do it, or is a volunteer guardian needed? If the child is in DHS custody or guardianship this may be done at public cost through the county attorney's office. If not, parents need to contact their own attorney several months ahead of time.
- If client is 18 or older and probate court has not appointed a guardian, be sure to get signed releases from that client so that you can release necessary information.

Appendix E

Ford's Narrative Continuation

State of Iowa
Department of Human Services
Narrative Continuation

Worker Name
Karin Ford

Case Name
Reggie Kelsey

DATE	NARRATIVE
8/8/00	Phc from Jeff, he reports that Reggie broke a window and was awol.
8/10/00	Phc to Job Corp, spoke with Dan McClumma about Reggie, questioned when they would make a decision. He agreed to get back with this worker.
9/26/00	Phc from Jeff Jansen, 988-7040, he reports that he spoke with Holly, Job Corp Counselor, they still have not made a decision on Reggie. Reggie's medication has been changed to dexedrine. He has reported having aggressive sexual fantasy's about female staff. He has been masterbating on the unit and staff re-direct him to his room. This worker supports moving him to Bracewell and preparing him for independent living because it does not appear as though he is going to get into Job Corp. Bracewell has an opening. Jeff will get back with this worker about admit.
10/17/00	Phc from Job Corp, Reggie was not accepted into their program.. Phc to Jeff, told him that Reggie was turned down. Will begin transision into Independent Living.
11/29/00	Phc from Jeff, he reports that Reggie was caught stealing.
12/14/00	Face to face with Reggie at Bracewell, he reports that he is doing well. Wants to go into his own apartment. Believes he is ready. This worker talked about his stealing. Reggie reports that he was stealing due to being nervous about Independent Living. This worker reported that behavior would not be acceptable as an adult and he would reach majority in less than 2 months. Reggie understood and reported that he would improve on his behaviors.
1/15/01	Reggie moved into his own apartment.
1/20/01	Phc from Dave Beemer, he reports that Reggie is struggling with his peers in the apartment complex.
1/26/01	Phc from Doug Wolfe, he reports that Reggie is struggling with the lack of structure and supervision. This worker questioned if he could return to campus. He agreed to check into this. He reports that Reggie is self-harming, under socialized. He stole a tape from Merle Hay Mall, he is banned from there. They will keep tabs on him.
1/29/01	Phc from Doug, Reggie is being discharged from their program. He can not go back to campus they do not have an opening. He will go to shelter. Made a referral to the adult unit.
2/2/01	Phc from Doug, he reports that Reggie is at YESS. Doug reports that Reggie took knives from school. School is going to expell him. He will be placed at Meyer Hall.
2/14/01	Reggie reached majority, went to Churches United. Closed case.

5.16.00 PUC from Stephanie Jeter,
Reggie will move from A3 to A2 on 6/2/00.
This worker agreed to get out — ~~EFORD~~

5.17.00 PUC to Reggie, told him that
Baytown turned him down. This
worker agreed to pursue other options.

6.7.00 Made referral to Job Corp

6.23.00 PUC from Jeff Hansen 276.3473, reports to
Reggie has met with Job Corp. He wants
to go. They have accepted him — ~~EFORD~~

7.7.00 Face to face with Reggie at 9th St. Met
with Job Corp Coordinator. Jeff Hansen
signed paperwork for Job Corp. Sent
for Birth Certificate. — ~~EFORD~~

State of Iowa
Department of Human Services
Narrative Continuation

Date	Narrative
10.25.99	PUC from Karen Taylor, Dier new address in 5001 SW 9th 50315, phone # 953-0226 - WRAP
10.28.99	Face to face with Reggie at court. CMTA reviewed previous orders and confirmed WRAP
11.18.99	PUC from Stephanie Waters 276-3973 this writer approved Marion's visit to with advocate. WRAP
11.29.99	PUC from Stephanie Waters, she requested 15 units. WRAP
1.14.00	Face to face with Reggie at YHMA. He reports he is fine, no problems - WRAP
3.10.00	PUC from Stephanie Waters, scheduled staffing for 3.22.00 3pm - WRAP
3.22.00	Face to face with Reggie at YHMA. Staffing held including this writer, Reggie and Stephanie Waters. Discussed options for Reggie. This writer believes Boystown would be a good option. Will continue pursuing that placement WRAP Agreed to take Reggie to Boystown to visit on 3/29/00 - WRAP
3.22.00	PUC to Boystown, spoke with George. scheduled visit for Reggie on 3/29/00 - WRAP
3.29.00	Face to face with Reggie, transported him to Boystown with Stephanie Waters. Visited facility. Reggie was supportive and excited about the possibility of placement at Boystown WRAP
3.29.00	Returned Reggie to YHMA - WRAP
3.2.00	PUC from Jeff Karher, he questioned what the plan was for Reggie. This writer reports Boystown continues to be the plan if in need.

State of Iowa
Department of Human Services
Narrative Continuation

Worker Name
Karin Ford

Case Name
Reggie Kelsey

DATE	NARRATIVE
1/6/99	Phone call from Russ Natenborg, YHMA, he reports that Reggie stole a book. He has admitted to doing this and staff are handling it with consequences. He is doing fine other than that.
2/3/99	Face to face with Reggie on YHMA campus, he reports that he is fine. He is requesting contact with his siblings and his parents. This worker said that he could contact his Dad. This writer told him that he probalely would not get a response. Reggie understood this. This writer does not know where his mother and told this to Reggie. This writer reports that he can have contact with his siblings as long as it does not disrupt placement. Reggie agreed.
3/23/99	Phone call from Marllys Jordan, 270-0930 ext. 4357. She questioned what school district Reggie belonged to. This worker reported Ankeny.
4/9/99	Face to face with Reggie on YHMA campus. He reports that he is fine. He was on his way to lunch. Short visit. Had nothing to report.
5/17/99	Face to face with Reggie at YHMA, transported his sister, Tami, to visit. They had lunch on campus. He reported he enjoyed the visit.
6/30/99	Face to face with Reggie, he reports that he is doing fine. He wants a job. He needs his birth certificate and social security card. This worker agreed to get a copy of his birth certificate.
7/27/99	Phone call from Russ Natenborg, he requested permission for Reggie to go to Chicago with the cottage for vacation on 8/4-8/6/99. This worker approved trip. ✓✓

State of Iowa
Department of Human Services
Narrative Continuation

DATE	NARRATIVE
10/28/98	Court hearing held for Reggie. Both adoptive parents did not show. Prior orders confirmed. Placement in long term care, guardianship.
10/30/98	Face to face with Reggie at OP, transported and placed him at YHMA.
11/6/98	Phone call from Suanne Bab, 286-3898, she reports she was Reggie mentor at OP and wondered if she could continue. This worker agreed. To visits, phone and passes.
11/18/98	Phone call from Jeff Jansen, YHMA, 276-4373, he reports that Reggie reported that his sister forced him to have sex with him. He was unable to give times, dates, places or ages. He was very graphic in description. Jeff did not find him reliable. He reports that they found Hustler Magazines under his pillow.
11/18/98	Phone call from Jeff, YHMA, he reports that Reggie ran was picked up by Johnston police and staff and returned to campus. Jeff believes he is upset because staff went through his room retrieving stolen items. KF
12/11/98	Face to face with Reggie on YHMA campus. Spoke briefly with him. He reports he is fine, no concerns. — KFORD
12/28/98	Phone call from Jeff Jansen, he reports that Reggie was transported to Grubb Cottage. Reggie has been talking with his sister over the phone. This worker is ok with this. — KFORD
1/14/99	Face to face with Reggie on YHMA campus. Reports he is fine, no concerns. — KFORD
1/29/99	Phone call from Jeff Jansen, YHMA, he reports that Reggie ran last night, to a grocery store in Johnston, stole a magazine. Police picked him up returned him to Johnston. He will not be charged w/ shoplifting. — KFORD

State of Iowa
Department of Human Services
Narrative Continuation

Worker Name
Karin Ford

Case Name
Reggie Kelsey

DATE	NARRATIVE
3/30/98	Phone call from Deanna Dower, OP 287-9635, left message to return call. Returned call on 3/31/98. Left message that this worker returned call.
4/3/98	Phone call from Deanna Dower, she reports that Jane, Reggie's mom refuses contact with Reggie and will not provide any information on him.
4/9/98	Phone call from OP, they have an opening for Reggie on 4/15/98. This worker agreed to do paperwork for placement.
4/15/98	Face to face with Reggie at YESS, transported him to OP and placed.
5/13/98	Staffing held for Reggie at OP, DX is ADHD, RO PTSD with psychotic features, in the 8 th grade, should be in the 9 th . Staff have not seen a lot of negative behaviors.
5/22/98	Face to face with Reggie at OP. He was not talkative. Short visit due to having doctor's appointment.
6/3/98	In-House staffing with Colleen Rhinehart and Angela Stark. Angela had this case in adoptions and provided information on Reggie.
6/15/98	Phone call to Jayne McCaffrey, requested that she meet with this worker regarding Reggie. She refused to meet with this worker. She reports that she has talked all she wants to regarding Reggie and I could get information from YESS. She did agreed to speak with this worker on the phone on 6/18/98.
6/18/98	Phone call to Jayne McCaffrey, she reports she was too busy to speak with this worker, rescheduled for 6/29/98.
6/22/98	Phone call to Karen Taylor, GAL, reported that Jayne was not being cooperative.
6/29/98	Attempted phone call to Jayne, unable to get through due to power outage due to tornado.
6/30/98	Phone call to Jayne, rescheduled for 7/6/98
7/6/98	Phone call to Jayne, she gave limited information regarding Reggie and terminated phone call.
7/15/98	Staffing held at OP for Reggie. He continues to display limited social skills and little insight on how to change his behaviors. He has a great deal of difficulty with peers. Agreed to continued care.
7/21/98	Court hearing held for Reggie, prior orders confirmed. Jayne McCaffrey and Gene Kelsey were ordered to provide information to the Department regarding Reggie.
7/27/98	Face to face with Reggie at OP, he continues to make slow progress. His appearance has improved and he has grown physically.
8/14/98	Phone call from Reggie, he asked if he could get his car pierced. This worker approved.
8/27/98	Phone call from Gene Kelsey, he reports that Jayne placed Tammi at YESS, he is going to take custody. Phone Home 963-0724, work 247-4819.
9/8/98	Phone call from Gene Kelsey, he reports that Chris is coming into care.
10/14/98	Staffing held at OP for Reggie. He is nearing discharge. This worker reports that he has been on the waiting list at Youth Homes for some time.
10/20/98	Phone call from Kathy Byers, she reports that Reggie is back on campus school. He had a difficult time during Homecoming.
10/26/98	Phone call from Mike Pavon, YHMA, he reports there is a bed available for Reggie. Will place on 10/30/98.

CS-4105 (4/94) 470-1925

page 1 of 2

Typed: 11/19/98

State of Iowa
Department of Human Services
Narrative Continuation

Worker Name
Karin Ford ✓

Case Name
Reggie Kelsey

DATE	NARRATIVE
1/14/98	Received case, reviewed material. Placed him on waiting list at Orchard Place.
1/20/98	Face to face with Reggie at court, he was placed in the custody of the Department for placement commensurate with needs. His mother did not attend the hearing.
2/23/98	Phone call from Shawn, Reggie ran from shelter today but returned
2/26/98	Phone call from Laurie, 287-9615, she reports that Reggie is high maintance, acting out and attention seeking. She reports he has been in shelter since last October. His family has not made contact with him. He is sexually acting out, masturbating in public. She believes he is acting out due to lengthy shelter stay and no contact with his family.
2/26/98	Phone call to Orchard Place, spoke with Laurie, questioned where Reggie was on the waiting list. She reports if will be quite a wait. She suggested that he become involved with the GAPS program and they can bump him up on the waiting list if he needs placement. This worker agreed to fund GAPS. She said she would begin the process.
3/3/98	Phone call from Deanne, GAPS, 287-9635, she reports that she has been approved through Merit for four sessions with Reggie.
3/4/98	Phone call from Lisa, YESS, 282-9377, she reports that Reggie is not having a good week.
3/12/98	Phone call from Deanne, GAPS, she reports she needs educational testing done on Reggie. This worker reports that the home school would probaly have that information.
3/13/98	Phone call from Lisa, YESS, she reports that Reggie needs a clothing allowance. This worker agreed to check into this. ✓

Appendix F

DHS Memo, Myers to Lacy and Ford, 12/8/99

IOWA
DEPARTMENT
OF

HUMAN SERVICES-----INTEROFFICE MEMO

RECEIVED
DEC 08 1999

December 8, 1999

To/Office: YHMA, Johnston Campus/Polk County

Attention: Katie Lacy, Counselor/Karin Ford, SW

From/Office: Dan Myers, SWII, Transition Planning Specialist
Des Moines Regional Office

Subject: Transitional Planning Assessment for Reggie Kelsey

On December 7, 1999, this worker interviewed Reggie at his placement at the YHMA Johnston Campus in Johnston, at the request of his counselor, for the purpose of formulating a life skills assessment. Reggie is 16.8 years old and is placed in foster care on a CINA. Reggie states that he is in placement because there is no other place for him to go since family is not an option. He has been in placement a year at YHMA and is planning on going to Boys Town in January, just prior to his 17th birthday. He is in 10th grade at Johnston HS and he will be graduating high school when he is 19.2 years old, leaving some options open for voluntary foster care on his 18th birthday.

I gave Reggie the Daniel Memorial Life Skills assessment test to complete, and assigned him the task of completing it by Friday morning when I will pick it up. It will be following this report when completed.

My recommendation is to prepare Reggie for the decision as to whether he goes into voluntary foster care when he turns 18 years old, or just graduates out of the foster care system. At this point, he states that he is leaving the system on his 18th birthday so as to take control of his own life. We talked about advantages of independent living on his 18th birthday and hopefully he will seriously consider his options in due time. At the current time he is too immature to seriously consider that decision and will have time to grow and learn to achieve long term goals. I'm sure Boy's Town will help him work on goal development, as YHMA has done to this point.

For further assistance, call Dan Myers at 283-9256. Thanks.

Appendix G

YHMA Ross Campus Discharge Summary, 10/2/00

**YOUTH HOMES OF MID-AMERICA
ROSS CAMPUS
DISCHARGE SUMMARY**

RECEIVED
OCT 20 2000

NAME: Reggie Kelsey
DOB: 2-14-83

ADMISSION DATE: 6-2-00
DISCHARGE DATE: 10-2-00
REPORT DATE: 10-9-00

REFERRAL SUMMARY

Reggie was referred to Youth Homes of Mid-America (YHMA) by Karin Ford of the Polk County Office of the Iowa Department of Human Services. Initially, Reggie was placed in the Ross Cottage comprehensive program on 10-30-98, but was transferred to Grubb Cottage on 12-2-98 due to his need for an enhanced level of structure and supervision. He stayed in Grubb Cottage until his admission back into Ross Cottage on 6-2-00. Reggie's main focus is to now build independent living skills.

FAMILY INVOLVEMENT

Reggie hasn't had any contact with his adoptive parents in years. He stays in contact with his brothers, Luke and Chris, via the phone and supervised visits with Chris. Reggie hasn't had any contact with his sister in sometime.

SUMMARY OF PROGRESS

The past several months have been hard for Reggie because he didn't know when or if he was going to be accepted into the Job Corps program. He eventually got the answer that he indeed was accepted, but by this time his anxieties had got the best of him and he was displaying several negative behaviors. These, as well as him being started on a new medication, were enough for the Job Corps people to say that now may not be the best time for Reggie to enter their program. Reggie was relieved to have an answer either way and he then prepared himself to move to Bracewell.

Reggie has been working on two main goals since moving to Ross Cottage. The first was that Reggie would develop skills to effectively identify and cope with his anxieties. The main objectives were that Reggie wouldn't act out his anxieties through self-destructive behaviors (i.e. lying, stealing) and that he would verbally express his feelings rather than acting out or withdrawing from situations. As mentioned earlier, Reggie became very anxious about his move to Job Corps. At first, Reggie did an effective job of dealing with things and he would discuss his concerns with staff. As time went on, Reggie began to slip back into some old negative habits. Reggie began to again lie and steal. More concerning however, was the fact that Reggie began to fondle himself while out on the unit with others. At times he wouldn't even attempt to cover himself. Reggie was sent to his room and prompted to stop this behavior in front of others, but he continued. He eventually opened up and told staff that he was having fantasies about female staff and females in general. As more time passed, Reggie stated that he was

Reggie Kelsey
Page 2
Discharge Summary

having violent fantasies about raping someone. He said that this was a way in which he could control things. Reggie was then put on Dexedrine to help him think more clearly and possibly keep him from slipping into his fantasy cycle as often.

Reggie's second goal was that he would develop independent living skills. The main objectives were that he would utilize free time with passes, activities, and jobs, rather than isolating and that he would make mature decisions while interacting in the community. Reggie quit his job soon after discussions with Job Corps began because he thought he would be leaving within a short amount of time. He did take several passes to the mall to get items he was needing. He would go by himself or with peers. No problem behaviors were ever reported. Reggie also seemed to get along well at Johnston High School and no problems were reported this year.

REASON FOR DISCHARGE/RECOMMENDATION

Reggie was discharged on 10-2-00 to go to YHMA's Bracewell Group Home to better prepare him for independent living in the near future. Due to Job Corps not working out, Reggie's focus again was back on independent living. Bracewell should allow Reggie a gradual transition between campus and his own apartment. Looking into whether or not Reggie qualifies for adult services should be looked into in the coming months due to Reggie turning eighteen in February. Continued medication reviews should be scheduled regularly.


Jeff Jansen, Coordinator

Appendix H

YHMA Bracewell Group Home Discharge Summary, 1/15/01

RECEIVED
JAN 25 2000

**YOUTH HOMES OF MID-AMERICA
BRACEWELL GROUP HOME
DISCHARGE SUMMARY**

NAME: Reggie Kelsey
DOB: 2-14-83

ADMISSION DATE: 6-2-00
DISCHARGE DATE: 1-15-01
REPORT DATE: 1-18-01

REFERRAL SUMMARY

Reggie was referred to Youth Homes of Mid-America (YHMA) by Karin Ford of the Polk County Office of the Iowa Department of Human Services. Initially, Reggie was placed in the Ross Cottage comprehensive program on 10-30-98 but was transferred to Grubb Cottage on 12-2-98 due to his need for an enhanced level of structure and supervision. He stayed in Grubb Cottage until his admission back into Ross Cottage on 6-2-00. Reggie entered Bracewell on 10-2-00 to better prepare him for the transition into independent living.

FAMILY INVOLVEMENT

Reggie hasn't had any contact with his adoptive parents in years. He stays in contact with his brothers, Luke and Chris, via the phone and supervised visits with Chris. Reggie hasn't had any contact with his sister in sometime.

SUMMARY OF PROGRESS

Reggie spent just over three months at Bracewell. This time was supposed to allow Reggie a transition period between the structured campus setting and his eventual independent living apartment setting. The goal was to get Reggie out into the community as much as possible to better prepare him for life on his own. Unfortunately, Reggie's behavior restricted him from fully taking advantage of the opportunities that were available to him. During this time Reggie made progress at his established goals, but often they were overshadowed by his relapses of concerning behaviors.

Reggie worked toward two main goals during his time at Bracewell. The first goal was that Reggie would develop skills to effectively identify and cope with his anxieties. The main objectives were that Reggie wouldn't act out his anxieties through self-destructive behaviors (i.e. lying, stealing) and that he would verbally express his feelings rather than acting out or withdrawing from situations. Throughout Reggie's stay, he struggled with avoiding the urge to steal. Reggie was barred from the mall after he stole a video from a store there and he also wasn't allowed back at the gas station next door after being caught with several items from there. Reggie also stole from school, peers, and staff. When caught, Reggie was made to return the items and apologize for his actions. Staff tried to stress the importance of Reggie controlling these behaviors, especially due to his age and the greater consequence that accompanies reaching maturity. Reggie said he enjoyed the "rush" that it gave him to steal, knowing that he may get caught. Reggie met regularly with Dr. Jeff Kerber who helped Reggie focus on the root of his anxieties and gain more age appropriate ways to cope with these issues.

Reggie Kelsey
Page 2
Discharge Summary

Reggie made good progress in these sessions by being able to verbalize how he is feeling and gain more insight into his true problems. As Reggie's discharge date into independent living approached, Reggie became much more anxious about being alone. He increased the amount he approached staff to discuss these issues, but he also increased his amount of ineffective coping strategies. Staff stressed to Reggie that these feelings of being scared about being alone were perfectly normal and that he should discuss them with others rather than acting out in self-destructive ways that would only hurt his situation.

Reggie's second goal was that he would develop independent living skills. The main objectives were that Reggie would utilize free time with passes, activities, and a job, rather than isolating and that he would make mature decisions while interacting in the community. In addition to Reggie's stealing, he was charged with being a minor in possession of tobacco. He was charged a \$50.00 fine and made to attend a smoking group. Due to these behaviors, Reggie's free time out of the house has been very limited and usually he needed to be under the supervision of staff. Throughout his stay at Bracewell, Reggie never obtained employment. There were problems in obtaining a birth certificate and social security card which most employers needed to see before he could start, but mainly Reggie didn't get a job due to him not feeling it was an important part of his treatment. He understands that a job would be an expectation to have in independent living and that he almost certainly will need one when he leaves that program, but unfortunately he doesn't seem to think it's a priority.

REASON FOR DISCHARGE/RECOMMENDATION

Reggie was discharged on 1-15-01 to enter YHMA's independent living program. This date was chosen because it was thought that Reggie needed to be in this program before his eighteenth birthday so that he knew what the program had to offer him and in hopes that he would voluntarily sign on after his birthday. Reggie will need continued support and guidance, as he has no outside family to help him or whom he can turn to. It would be recommended that Reggie continue to work toward his high school diploma and obtain employment. Reggie should also continue to follow-up with Dr. Jeff Kerber for his individual sessions or seek the advice of Dr. Kerber on who Reggie could meet with if his services are no longer possible. Reggie should also seek the input of Dr. Nightingale on who he could follow-up with for psychiatric help after he leaves the YHMA program. Continuing to look into the possibility of Reggie qualifying for adult services should also remain a priority.


Jeff Jansen, Cottage Coordinator

Appendix I

YHMA Bracewell Group Home Quarterly Report, 11/29/00

**YOUTH HOMES OF MID-AMERICA
BRACEWELL GROUP HOME
QUARTERLY PROGRESS REPORT**

**RECEIVED
DEC 21 2000**

NAME: Reggie Kelsey
AGE: 17 **DOB:** 2-14-83

ADMISSION DATE: 6-2-00
REPORT DUE DATE: 11-29-00 (180 Days)

PREPARED BY:

COORDINATOR: Jeff Jansen
PRIMARY YCW: Walker Hodges
GROUP THERAPIST: Eric Goodale

OVERALL TREATMENT GOAL: Independent Living

PROJECTED DISCHARGE DATE: January 2001

REHABILITATIVE NEED (IFMC DATES):

TREATMENT PROGRESS

Reggie has moved to Youth Homes of Mid-America's (YHMA) Bracewell Group Home since his last report three months ago. This decision was made after Reggie was not accepted into the Job Corps Program. Reggie's focus was then switched to independent living with a short stay at Bracewell. Reggie has been at Bracewell since 10-2-00. Reggie is currently on the lowest level and he is having daily struggles with acting out his anxieties through self-destructive behaviors and thoughts.

Reggie has been working toward two main goals this reporting period. The first goal was that he would develop skills to effectively identify and cope with his anxieties. The main objectives were that Reggie wouldn't act out his anxieties through self-destructive behaviors (i.e. lying, stealing) and that he would verbally express his feelings rather than acting out or withdrawing from situations. Reggie's biggest struggle has been avoiding the urge to steal. He was banned from the mall due to stealing a video tape from The Music Store and he also isn't allowed at the gas station next to Bracewell due to stealing items from there. Reggie is caught almost on a daily basis with things that do not belong to him. These items come from peers, school, and stores. When staff catch him, they make him return items and apologize for his actions. They stress the importance of Reggie controlling these behaviors, especially due to his age and the greater consequence that accompanies reaching maturity. Reggie meets regularly with Dr. Jeff Kerber who helps Reggie focus at the root of his anxieties and work to develop more age appropriate and effective ways to cope with these issues. These sessions allow Reggie to verbalize how he is feeling and gain more insight into his true problems. Reggie has

Reggie Kelsey
Page 2
Quarterly Progress Report

gotten better at approaching staff to discuss these areas, but unfortunately these issues are usually discussed after Reggie acts out.

Reggie's second goal was that he would develop independent living skills. The main objectives were that Reggie would utilize free time with passes, activities, and a job, rather than isolating, and that he would make mature decisions while interacting in the community. In addition to Reggie's stealing, he was charged with being a minor in possession of tobacco. He was charged a \$50.00 fine and made to attend a smoking group. Due to these behaviors, Reggie's time out of the house has been under the supervision of staff. It is hoped that Reggie can again be trusted to venture out on his own in order to learn more independence building skills. Reggie has struggled to obtain a job at this point. Unfortunately this doesn't seem to be an important part of his treatment to him, but he understands this will be an expectation to meet before entering independent living. It is my belief that Reggie needs to be in the YHMA's independent living program before he turns eighteen on 2-14-01. Reggie will be much more motivated to sign on and stay if he is already in the program he is working toward. A transition date of mid-January is being looked at currently.

PSYCHOLOGICAL/PSYCHIATRIC

Reggie was last seen by Dr. Nightingale on 10-30-00. He continued Reggie's diagnosis of ADHD and Conduct Disorder. He continued Reggie on Dexedrine and started him on Clonidine to manage these disorders. A follow-up appointment was set for a month.

FAMILY INVOLVEMENT

Reggie hasn't had any contact with his adoptive parents in years. He stays in contact with his brothers, Luke and Chris, via the phone and supervised visits with Chris. He hasn't had contact with his sister in sometime.

ACADEMIC/EMPLOYMENT

SUMMARY OF PROGRESS

Reggie is currently enrolled in the 11th grade at Roosevelt High School. He is weighted 3.6 BD. Reggie's grades are average and they seem to be up to his potential. Reggie has had few reported problems and he appears to like school. Reggie would like to graduate from high school and go onto college.

Reggie Kelsey
Page 3
Quarterly Progress Report

MEDICAL

SUMMARY OF PROGRESS

Reggie currently takes Dexedrine and Clonidine for management of his ADHD and Conduct Disorder diagnoses. Reggie has been in overall good health throughout this reporting period except for a broken thumb he received after he hit a peer.

MEDICAL EXAMS

10-18-00	Dr. Young	Dental check up
10-27-00	Dr. Rogers	Broken thumb
11-21-00	Dr. Rogers	Follow-up for thumb

RECOMMENDATION

Reggie will need a highly structured independent living program.

REVIEWED BY:

Gil Cerveny
Gil Cerveny, Treatment Director

11-28-00
Date

cc: Parents - N/A
JCO - N/A
DHS
Coordinator
Primary YCW
Cottage
Teacher
Youth
File

Appendix J

YHMA Independent Living (ABIL) Discharge Summary, 2/14/01

**YOUTH HOMES OF MID-AMERICA
APARTMENT BASED INDEPENDENT LIVING
DISCHARGE SUMMARY**

RECEIVED
MAR 05 2001

NAME: Reggie Kelsey
DOB: 2/14/83

ADMISSION DATE: 1/15/01
DISCHARGE DATE: 2/14/01

SUMMARY OF PROGRESS

Reggie was placed in Apartment Based Independent Living (ABIL) and remained for only a month. He lived in an efficiency apartment at 4906 Ingersoll in Des Moines. Throughout the month of living in this apartment, Reggie deteriorated rapidly.

During his stay in the program, Reggie struggled with a variety of things. (1) He got suspended from Roosevelt High School for bringing a knife to school, and later expelled for bringing a knife again. (2) He failed to get a job. (3) He broke curfew several times. (4) He stole a bike. (5) He failed to maintain a clean apartment. (6) He burned plastic and Barbie dolls in his apartment. (7) He harmed himself with knives, and (8) he was giving his medications to his peers. These are but a few examples. Reggie's behavior struggles were ongoing while in the program. Such behaviors led to Reggie's dismissal from the ABIL program on 2/14/01.

This counselor encouraged Reggie to turn things around many times and warned him if he didn't that he may be discharged. Each time Reggie assured me he would, but he did not follow through. This counselor spent between 10-15 hours a week with Reggie filling out employment applications, doing laundry, helping with homework, eating out, and exploring rec activities. Despite my efforts, Reggie failed to help himself. He often talked of planning to improve, but his behavior only got worse.

This counselor felt that Reggie needed more supervision and wasn't ready to live on his own. In addition to his aforementioned problems, Reggie often talked of hallucinating and not being able to sleep. Because of his bizarre thoughts and condition, Reggie's psychiatrist, Dr. Nightengale, changed Reggie's diagnosis from ADHD to Psychotic NOS. Another psychiatrist, Jeff Kerber, who has known Reggie for three years, was very concerned for him and questioned him being capable of being on his own. He felt Reggie was not only a threat to himself, but also to the community.

On February 14, Reggie's 18th birthday, this counselor transported him from Youth Emergency Shelter Service (YESS) to Iowa Homeless Youth Shelter, where he currently resides. This counselor has continued to make frequent contact with Reggie to ensure Reggie has made the transition smoothly.

This counselor has recommended adult services for Reggie and it is my understanding that Karin Ford, DHS, has made arrangements in this regard.

Page 2
Reggie Kelsey
Discharge Summary



David Beamer, Counselor

 2/14/01

Doug Wolfe, Director of Community Services

cc: Parent
DHS
Counselor
Youth
File

Appendix K

Polk County DHS Adult Service Intake/Referral Form

POLK COUNTY DEPARTMENT OF HUMAN SERVICES, ADULT SERVICES, ICE INTAKE/REFERRAL

Assigned To: John SRS Screen Data: No SRS case
 Date: 2/15/01 By: [Signature] Date: 2-15-01
 Intake Completed By K. Ford Date _____ Urgency _____
Explain in comments section

Client Name Reggie Kelsey DOB 2/14/83 SS# 47698-4311 SID# 15146086
 Address Town Homeless Youth 1219 Buchanan DR Polk 50316
Street City County Zip
 Directions # 265-1222

Client's Phone# _____ Other Contact Name, Relationship & # _____

Referred by Karin Ford Relationship foster care Phone # 383-9270

Physician Name & # _____

Marital Status:

Married _____ Divorced _____ Single X

HOUSEHOLD COMPOSITION:

NAME	RELATIONSHIP	DOB	SOC. SEC. #	COMMENTS
<u>Gene Kelsey</u>	<u>Dad</u>			

Income Amount & Source: SS _____ SSI _____ SSDI _____ Wages _____ Other _____ TOTAL _____

Diagnosis of: MR _____, DD _____, MI X, BI _____, Adult _____

Further Description and Documentation of Diagnosis:

ADHD, Reactive attachment disorder

Haldol, Zoloft Dr. Dewdney

Service Requested and Reason:

Residential X Vocational _____ MH Services X MOW _____ Paratransit _____ Bus Plus _____ In Home Health _____

Payee X

Protective Services _____ Waiver/Type: Elderly _____ Ill & Hand. _____ MR _____ HIV/Aids _____

General Assistance: Rent X, Food X, Other _____

[Redacted], complete (6/01)

Reggie was in 4th grade Independent living - was
kicked out one week before reaching majority.
He is placed at Iowa Homeless Youth

Appendix L

Approval for Independent Living Form 470-3186

Iowa Department of Human Services APPROVAL FOR INDEPENDENT LIVING FOSTER CARE PLACEMENT

Approval for Independent Living Placement

Child's Name	Date of Birth	County	Date
--------------	---------------	--------	------

The youth meets the following criteria for approval of Independent Living:

- ☐ Child completed an Assessment of Independent Living Skills in _____ Month/Year.
- ☐ Child was recommended for Independent Living Foster Care by the Foster Care Review Committee on _____ Date.

If under age 18 (check one):

- ☐ Working full time.
- ☐ Attending high school full time and working, or in work training part time.
- ☐ Attending GED program full time and working, or in work training part time.
- ☐ Attending high school or GED program full time. Work requirement is waived until _____ Month/Year.
- Reason for waiving work requirement:

If age 18 or over (check one):

- ☐ Attending school full time and working, or in work training part time.
- ☐ Attending GED program full time and working, or in work training part time.
- Attending high school or GED program full time. Work requirement is waived until _____ Month/Year.
- Reason for waiving work requirement:

An initial allowance in the amount of _____ is requested to assist the youth in paying deposits, furnishings, and other start-up costs. (Compare the needed expenditures with the youth's resources, including any funds in the youth's escrow account. If the youth's resources are insufficient, request an initial allowance of not more than \$400 to make up the difference.)

Worker	Date	Supervisor	Date
--------	------	------------	------

APPROVAL FOR INDEPENDENT LIVING FOSTER CARE PLACEMENT

The request for an Independent Living Foster Care Placement is: ☐ Approved ☐ Denied

The request for an initial allowance is approved in the amount of _____

Human Service Area Administrator	Date
----------------------------------	------

If child is under age 18, worker should obtain Juvenile Court Order for Independent Living Placement after receiving HSAA approvals.

470-3186 (4/95)

White: Case Record

Yellow: Independent Living Specialist

Appendix M

DHS Manual Instructions for Form 470-3186

EMPLOYEES' MANUAL

XVIII-Appendix 2g

CHILD WELFARE FORMS

APPROVAL FOR INDEPENDENT LIVING FOSTER CARE PLACEMENT, 470-3186

The Approval for Independent Living Foster Care Placement is used to obtain the human services area administrator's approval for a youth age 16 or older to be placed into an independent living foster care placement. This form is also used to obtain authorization for payment of start-up costs needed by the youth.

When Prepared

This form is prepared after a foster care staffing has determined that an independent living placement is the appropriate level of care for the youth.

By Whom Prepared

The youth's social worker or case manager prepares the form and submits it to the HSAA for signature.

Number of Copies

An original and one copy are prepared.

Specific Instructions

Complete all information above the asterisks and obtain the supervisor's signature. Then obtain the signature of the HSAA.

The HSAA approves or denies placement and indicates the amount of the start-up money approved.

Disposition

File the original in the case record. Forward the copy to the regional independent living specialist who covers the county where the child is from.

Appendix N

"Transitioning Child to Adult Services" Form

Transitioning Child to Adult Services

Caseworker: Kervin Ford
 Child: Reggie Kervin
 Birthdate: 2.14.85
 Date turns 18: 2.14.01

Staff ing Date	Legal	Diagnosis	Placement	Services Receiving	Services Needed & Can Receive as an Adult:	Who needs to do these things by what date:
2/14/01	<input type="checkbox"/> DHS custody <input type="checkbox"/> Legal <input type="checkbox"/> Settlement <input type="checkbox"/> Needs parent or volunteer guardian at 18? <input type="checkbox"/> Child welfare 2/14/01	<input type="checkbox"/> MR <input type="checkbox"/> IQ <input type="checkbox"/> Who diagnosed & date diagnosed: <input type="checkbox"/> FMI Diagnosis Who diagnosed & date diagnosed: <input type="checkbox"/> DD Diagnosis Who diagnosed & date diagnosed: <input type="checkbox"/> DD checklist needs to be completed? <input type="checkbox"/> Wheelchair ABHD Leashie Ophthalmo	Current Location: School & graduation date: Needs placed at 18? <input checked="" type="checkbox"/> Independent living plan done? Level of Care Needed: <input type="checkbox"/> Waiver home <input type="checkbox"/> ICF/MR <input type="checkbox"/> RCF <input type="checkbox"/> Continue in present foster care placement <input type="checkbox"/> Go/stay home Written placement referrals already made:	<input type="checkbox"/> SSI <input type="checkbox"/> Other DHS medical <input type="checkbox"/> Other... needs to apply	Learning Vocational	

Appendix O

Case Permanency Plan, 10/27/00

CASE PERMANENCY PLAN

A: FACE SHEET

PLACEMENT CHANGE

CT. DOCKET # **JI053682**

JV201760

COURT REPORT **10/27/00**
@ 9am

COUNTY **POLK**

NAME OF CLIENT Reggie Kelsey	DATE 10/17/00
CURRENT PLACEMENT AND ADDRESS YHMA, 7085 NW Beaver, Johnston, Iowa, 50131	
HOME PHONE (515) 276-3473	WORK PHONE

I. IDENTIFYING INFORMATION: (When used for individual client)

D.O.B. 2/14/83	SEX male	SS# 476-98-4311	GRADE 11th
TYPE OF SPECIAL EDUCATION & CLASS WEIGHT		PROXIMITY TO HOME 15	

LEGAL STATUS:

☒ A. Pre-adjudicatory ☒ D. Evaluation/DHS custody ☐ G. DHS guardianship
☒ B. CINA ☐ E. Voluntary placement ☐ H. Other
☐ C. Delinquent ☐ F. Court-ordered oversight, legal custody with

II. FAMILY MEMBERS:

NAME	D.O.B./ DECEASED	ADDRESS	PHONE	MARITAL STATUS (S/M/D)	RELATION- SHIP TO CLIENT	SS#
Jayne McCaffrey		10125 West Dartmouth Pl. Apt. 7-101, Lakewood, Colorado, 80277			M Mother	
[REDACTED]						
[REDACTED]						
[REDACTED]						
[REDACTED]						
[REDACTED]						
[REDACTED]						

III. OTHERS IN HOUSEHOLD

NAME	RELATIONSHIP TO CLIENT	AGE	NAME	RELATIONSHIP TO CLIENT	AGE
------	---------------------------	-----	------	---------------------------	-----

PAGE 2 - FACE SHEET

IV. PREVENTATIVE SERVICES: List Non placement services offered to the family or client.

TYPE OF SERVICE PROVIDED	DATE PROVIDED OR OFFERED (FROM-TO)	REASON SERVICE DISCONTINUED OR NOT
--------------------------	------------------------------------	------------------------------------

V. PLACEMENTS: (List from initial placement to current placement)

PLACEMENT AND ADDRESS	TYPE OF PLACEMENT	DATES OF PLACEMENT (FROM-TO)	LENGTH OF PLACEMENT (IN MONTHS)
Mercy-Franklin	hospital	10/17/97 - 10/21/97	
Mercy-Franklin	hospital	11/17/97 - 11/18/97	
YESS	shelter	10/97 - 4/15/98	6 months
Orchard Place	PMIC	4/15/98 - 12/2/98	8 months
Youth Homes of Mid-America	Residential	12/2/98 to present	

VI. COURT HISTORY:

DATES OF FIRST AND SUBSEQUENT ADJUDICATION ORDERS	DATES OF DISPOSITION HEARINGS (D) AND REVIEW HEARINGS (R)	DATES OF DISPOSITION ORDERS AND REVIEW ORDERS	LEGAL STATUS (CINA, DELINQUENT, FINA, NO ADJ., URM, VOLUNTARY, TPR, OTHER) AND SHORT DESCRIPTION OF DISPOSITION
12/5/97			CINA; DHS custody for placement
	1/20/98	1/20/98	CINA; DHS custody for placement
	6/4/98	6/4/98	Confirm prior orders
	7/21/98	7/21/98	Confirm prior orders
	10/28/98		Confirm prior orders, guardianship
	10/28/99		Confirm prior orders

VII. COPIES OF THIS PLAN ARE SENT TO:

	Business address	Phone #:
PARENT/GUARDIAN	[REDACTED]	[REDACTED]
PARENT/GUARDIAN	[REDACTED]	[REDACTED]
CHILD (if appropriate)	Reggie Kelsey	
CUSTODIAN	DHS	1200 University, Des Moines, Iowa 50314
DHS WORKER	Karin Ford	1200 University Des Moines, Iowa 50314 (515) 283-9278
JCO		
CASA		
CHILD'S ATTORNEY	Karen Taylor	5001 SW 9 th , Des Moines, Iowa, 50315 953-0226
GUARDIAN AD LITEM		
MOTHER'S ATTORNEY		

VIII. OTHER PERTINENT FACTS:**MEDICAL:****MEDICATION****DATE PRESCRIBED****PRESCRIBING PHYSICIAN:**

Dexedrine

9/00

Dr. Nightingale

Chlorpheniram Mal

9/00

Dr. Nightingale

Rhinocort

9/00

Dr. Nightingale

Requested on: _____

Attached to Case Pla _____

DATE
COMPLETED**PHYSICAL/MEDICAL PROBLEMS AND/OR DISABILITIES:****IMMUNIZATION RECORD:**

Requested on: _____

Attached to Case Pla XxDATE
COMPLETED**MOST RECENT PHYSICAL:**

Physician/Facility: YHMA

Address: _____

Attached to Case Plan

Requested on

9/00

MOST RECENT DENTAL EXAM:

Dentist: YHMA

Address: _____

Requested on

9/00

MOST RECENT EYE EXAM:

Physician/Facility: YHMA

Address: _____

Requested on

9/00

MOST RECENT PSYCHOLOGICAL EVALUATION COMPLETED BY:**RECENT BEHAVIORS INCLUDE:**

_____ Alcohol Use/Abuse

_____ Response to Authority

_____ Runaways

_____ Victim of Abuse

_____ Aggression

_____ Perpetrator of Abuse

_____ Suicidal Gestures/Attempts

_____ Enuretic/Encopretic

_____ Delinquent Behaviors

_____ Bizarre Behaviors

_____ Other (identify)

CASE PERMANENCY PLAN

PART C: PROBLEMS, STRENGTHS AND RESPONSIBILITY LIST

PART C1. PROBLEM LIST

NAME OF IDENTIFIED CLIENT: Reggie Kelsey	DATE OF PLAN: 10/17/00
	CT. DOCKET #: J1053682 JV201760

<u>PROBLEMS:</u> (make very specific)	<u>DESIRED OUTCOMES:</u> (List concrete results)	<u>DATE IDENTIFIED:</u>	<u>DATE ACHIEVED:</u>
1. Reggie has experienced and demonstrated emotional/personal problems relating to past family/blended family history.	Will gain insight into family and how to effectively deal with them.	1/98	
2. Reggie has suicidal ideations/makes suicidal gestures.	Resolve internal conflicts.	1/98	achieved
3. Reggie has problems forming appropriate attachments.	Will form appropriate attachments	1/98	improved
4. Reggie runs away.	Controls impulses.	1/98	achieved
5. Reggie is verbally and/or physically aggressive.	Will develop new coping and defensive behaviors.	1/98	achieved
6. Reggie shows problems with academic progress.	Will attend school and work to best of ability.	1/98	improved
7. Reggie resists authority.	Will develop internal controls.	1/98	improved
8. Reggie displays lack of positive peer relations.	Develop appropriate peer relations.	1/98	
9. Reggie has separation issues.	Set appropriate parent/child boundaries.	1/98	

STRENGTHS

1. Reggie has not run from placement since last report or displayed self-harm behavior.
2. Reggie has bonded with caregivers to the best of his ability.
3. Reggie is helpful to others.

PAGE 3 - PART C1: PROBLEM LIST

VISIT PLAN (FOR PLACEMENT CASES ONLY)

- ☒ Parents will visit child as noted in parents responsibilities.
- ☐ There is a no-contact order for dated
- ☐ Home visits will not be allowed due to
- ☒ Parents will be responsible to contact **Bracewell** to schedule visit.
- ☒ Sibling visits are structured at this time due to his siblings behaviors.

PART C2. RESPONSIBILITY LIST

DATE OF PLAN: 10/17/00

NAME: Reggie Kelsey

The following responsibilities and services are directed toward making sure this child gets the proper care consistent with the judicial determination. They were chosen as the ones most likely to help this family meet it's goals, to improve conditions in the parents' home, to meet the child's needs while in foster care, and to return this child home/secure a permanent placement for this child.

RESPONSIBILITIES:

(List the person's name and what the person is responsible for to resolve the above problems.)

Address Independent Living Skills plan information if child is age 16 or over: Services provided to prepare youth for independent living based upon on assessment of need and person(s) or agency(ies) responsible for delivery of services.

PARENT(S): [REDACTED]

1. *Provide DHS/JCO/Placement provider with all necessary information.
2. Obtain psychological/psychosocial/parenting evaluations.
3. Complete all counseling as indicated.
4. Obtain substance abuse evaluation and complete all treatment as indicated.
5. *Maintain safe, stable, secure home environment.
6. *Sign all releases of information.
7. *Attend all staffings and court hearings.
8. Meet with DHS worker.
9. *Maintain contact with child, provider, DHS worker, JCO.
10. *Cooperate with all aspects of case plan.
11. Visit Child and report on visit outcome.
12. Participate in homestudy process.
13. *Provide for child's emotional, physical, and educational needs.
14. Encourage independent living skills.
15. Provide all requested information/documents to assess parental liability.

TIME FRAMES**PROBLEMS:**

Ongoing

Ongoing

As needed

As scheduled

As scheduled

Ongoing

Ongoing

Ongoing

Ongoing

CHILD: REGGIE KELSEY

1. Will abide by all rules and expectations of current placement.
2. Actively participate in counseling/therapy provided.
3. Cooperate with case plan.
4. Attend staffings and court hearings.
5. Attend school regularly and maintain satisfactory progress.
6. Seek, secure, and maintain employment.
7. Attend all visits set up with family.
8. Meet with DHS worker.
9. No change of address without prior approval from worker.
10. Actively participate in all aspects of placement program.
11. Gain independent living skills.

Ongoing

As scheduled

Ongoing

As scheduled

Ongoing

As scheduled

As scheduled

Ongoing

Ongoing

DHS WORKER: KARIN FORD

1. *Maintain accurate and current case file.
2. *Visit child.
3. *Maintain contact with client's parent(s).
4. *Monitor provision of service and compliance with treatment and case plan.
5. *Receive reports and report to Juvenile Court.
6. *Maintain contact with provider.
7. *Arrange/attend all staffings and/or hearings.
8. *Make referral for all appropriate services.
9. *Act as liaison between facility, parent(s), and Juvenile Court.
10. *Complete paperwork necessary to facilitate payment.
11. *Assess family situation to determine the need for continued out-of-home placement.

Ongoing

As scheduled

Ongoing

Ongoing

Ongoing

As scheduled

As needed

As needed

Ongoing

Ongoing

Ongoing

PLACEMENT PROVIDER:YHMA

- | | |
|---|--------------|
| 1. *Provide reporting as required by DHS workers and/or Court officers. | Ongoing |
| 2. *Provide 24 hour care and supervision in a safe, stable, and structured therapeutic environment | Ongoing |
| 3. *Monitor and maintain physical health including yearly physical and eye exam and six month dental checkup. | Ongoing |
| 4. *Provide for and monitor academic program. | Ongoing |
| 5. *Cooperate with all aspects of case plan. | Ongoing |
| 6. *Notify DHS, police and family of all runaways. | Ongoing |
| 7. *Contact DHS and family for all medical emergencies. | Ongoing |
| 8. *Attend all staffings and court hearings and transport child. | As scheduled |
| 9. Provide vocational training. | Ongoing |
| 10. Provide for independent living skills. | Ongoing |
| 11. *Report to DHS worker any changes in the child's behavior and/or other significant events. | Ongoing |
| 12. *Involve parent(s) in program. | Ongoing |

OTHER PROVIDER(S):

- | | |
|--|--------------|
| 1. Provide individual and/or family therapy to child and/or parent(s). | As scheduled |
| 2. Cooperate with DHS case plan. | Ongoing |
| 3. Provide reporting as required by DHS worker and/or Court officers. | Ongoing |
| 4. Attend all meetings/staffings/hearings. | As required |
| 5. Maintain confidentiality with client, DHS, and family. | Ongoing |

JUVENILE COURT OFFICER:

- | | |
|--|--------------|
| 1. *Provide pre-dispositional report/social summary/all legal documents. | As required |
| 2. *Assist in transportation. | As scheduled |
| 3. *Complete and expedite any court work and notify DHS worker. | Ongoing |
| 4. *Monitor placement. | Ongoing |
| 5. *Arrange for detention or shelter as needed. | As needed |

GUARDIAN AD LITEM:DKAREN TAYLOR

- | | |
|---|--|
| 1. *Provide legal representation to child | |
| 2. *Advocate for child's best interest. | |

PART C3. SERVICES, FUNDING, AND SIGNATURES

DATE OF PLAN: 10/17/00

NAME: Reggie Kelsey

I. LIST SERVICES TO BE PROVIDED AND ANTICIPATED FUNDING SOURCES (DHS, county, parents, Medicaid, insurance).

FINANCIAL ELIGIBILITY

A. Legal Settlement: 77

B. Income: 0

Eligibility: 30-05 ☒ 70-05 ☐ 99-07 ☐ 99-99 ☐ 60-05 ☐

IV-E eligibility: ☒ yes; ☐ no, due to

SERVICE CODE

<input type="checkbox"/> A01/B01	Adoption services - DHS	<input type="checkbox"/> B61	Group day care home (full day)
<input type="checkbox"/> A10/B10	Direct/Purchased family-centered services	<input type="checkbox"/> B62	Licensed day care center (full day)
<input type="checkbox"/> A26/B26	Independent living - DHS	<input type="checkbox"/> B63	Family day care home (full day)
<input type="checkbox"/> A27/B27	Foster family care - DHS	<input type="checkbox"/> B64	In-home day care (full day)
<input type="checkbox"/> A31	Juvenile court related services	<input type="checkbox"/> C19	Shelter care - DHS/Polk County
<input type="checkbox"/> A60	Social casework	<input type="checkbox"/> C57	Transportation
<input type="checkbox"/> B14	Group day care home (1/2 day)	<input type="checkbox"/> F39	Adult support
<input type="checkbox"/> B15	Licensed day care center (1/2 day)	<input type="checkbox"/>	LINK Associates in-home respite
<input type="checkbox"/> B16	Family day care home (1/2 day)	<input type="checkbox"/>	LSS out-of-home respite
<input type="checkbox"/> B19	Shelter care - DHS	<input type="checkbox"/>	Camp Sunnyside respite
<input checked="" type="checkbox"/> B29	Foster group care - DHS	<input type="checkbox"/> F98	In-home health-related care

The goal is:

- ☐ 1 - Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency.
- ☐ 2 - Achieving or maintaining self-sufficiency, including reduction or of dependency.
- ☐ 3 - Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests and preserving, rehabilitating, or reuniting families.
- ☒ 4 - Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care.
- ☐ 5 - Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to children in institutions.

The objective is:

- ☐ K - Protection for children.
- ☐ L - Treatment for children who have or have a potential of being abused; neglected, exploited.
- ☐ N - Preserving, rehabilitating, or reuniting families.
- ☒ R - Placements for children and adults due to personal or family dysfunction.
- ☐ V - Out-of-home placement.
- ☐ W - Services to children in institutions.
- ☐ S - Services to handicapped children to enable them to remain with the family.

II. SCHOOL:

Name: Roosevelt High School

Address:

Grade: 11th

Counselor:

Grade Standing: - 11th

III. NAMES AND SIGNATURES:

I have received and read the case permanency plan. I understand my responsibilities.

Parent/Guardian

Parent/Guardian

Child

DHS Caseworker

JCS Officer

DHS Supervisor

CASE PERMANENCY PLAN

PART D: REVIEW

DATES:
 INITIAL ASSESSMENT 1/98
 PLAN WAS UPDATED 10/17/00
 LAST CT./ADMIN REVIEW 10/28/99
 THIS REPORT WAS WRITTEN 10/17/00

CLIENT NAME Reggie Kelsey		COURT DOCKET # J1053682 JV201760
PREPARER'S NAME Karin Ford	SIGNATURE <i>Karin Ford</i>	DATE <u>10/17/00</u>
SUPERVISOR'S NAME Bill Dickey	SIGNATURE <i>Bill Dickey</i>	DATE <u>10/17/00</u>

I. PERMANENCY GOAL: This goal is x to achieve _____ to maintain,

<input type="checkbox"/> Family unification	<input type="checkbox"/> Long-term foster family care	<input type="checkbox"/> Independent living
<input type="checkbox"/> Placement with relative	<input type="checkbox"/> Placement with guardian	<input checked="" type="checkbox"/> Long-term foster group care
<input type="checkbox"/> Adoption	<input type="checkbox"/> State institutional care	<input type="checkbox"/> Other (specify)

Since the last review the permanency goal has x remained the same _____ changed.

II. PROJECTED DATE for Achieving Permanency Goal: 12/98 for Case Closing: 18 yoa

Since the last review, the date for achieving the permanency goal has x remained the same _____ Changed.

III. PLACEMENT CASES ONLY: Explain how this placement is designed to achieve placement in the least restrictive (most family-like) setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child.

Reggie was placed in Youth Homes of Mid-America on 12/2/98. This is a licensed residential treatment facility, in Des Moines, Iowa, and was chosen because of Reggie's special needs for residential treatment and because it is the least restrictive and closest available setting in which those needs could be met which was consistent with the judicial determination. Placement was not made with a relative because not available, and placement with siblings not appropriate. The school placement was chosen because it was the one nearest home which worked most closely with the placement and which best addressed this person's educational needs. Out of State placement was not necessary.

IV. REPORT ON PROGRESS

Please address the following issues:

Progress or lack of progress of each problem and responsibilities listed on the permanency plan (if a problem has been alleviated, please note on this form.) Address assurances regarding proximity to the child's school.

☒ Services offered in the last caseplan have been and continue to be appropriate to this child's needs.
 _____ Services offered were not appropriate because

Since the time of the last case plan, the following has occurred:

Reggie continued in placement at Youth Homes of Mid-America on campus in Johnston. He was successful in the program and providers felt that it was in his best interest to move him to a lower level of care. Due to the failed family placements this writer felt placement in a long term group setting like Boystown would be most beneficial. After a lengthy referral and interview process Boystown believed that they were not able to provide for Reggie and he was turned down for placement. Another packet was set to Job Corp and again after delays and requests for more referral materials he was turned down. To Reggie's credit he was able to accept the limbo of not knowing what his future held but it did take a toll on his stability. Reggie became verbally assaultive with peers and began struggling in the cottage. During the summer he began masturbating in public and reporting that he was fantasizing about raping female staff. Due to this Reggie was referred to Jeff Kerber for an assessment and individual therapy regarding these issues. Medication was also recommended. This intervention has appeared to help Reggie as he has been able to manage his anxieties in a more appropriate fashion.

On October 2 Reggie was moved to Bracewell. He will continue to work on developing effect coping skills, appropriate communication skills, social skills and independently living skills. It is unlikely that Reggie will move into his own apartment for another year. Reggie will turn 18 next February. He has another year of school and will be able to sign himself in voluntarily continuing in placement. This writer believes that Reggie will need continuing support as an adult and will pursue a case manager in Adult Services.

Reggie is a junior at Roosevelt High School. He is doing well in school but needs a great deal of support and supervision to stay on task in a BD setting. The school is recommending testing to determine if he has a learning disability or is low functioning. This has been an issue in the past but nothing has been resolved. It is this writer understanding that Voc-Rehab will be involved which would be beneficial in targeting Adult services.

Reggie has been healthy since last report. All his medical and physical needs have been met. His current diagnosis is ADHD and Reactive Attachment Disorder. Dr. Nightingale will supervise his medication.

Recently Reggie was banned from Merle Hay Mall because he stole videotape from a store. He also stole a lighter and map from the Kum and Go store near the group home. This writer believes that all the recent changes may have prompted this behavior. In the past when Reggie is busy with school, work and the cottage milieu he is successful. Hopefully, he will find a routine, which will provide him with stability.

Bracewell is the most appropriate setting to provide for Reggie. The Department recommends that he continue in their care.

1. *That the caseplan be adopted.
2. The child be confirmed.
- 3 That Reggie remain in the custody and guardianship of DHS for long term placement commensurate with his needs.

RESPONSES AND COMMENT

Response to Report by Karin Ford

December 31, 2002

William P. Angrick II
Citizens' Aide/Ombudsman
Ola Babcock Miller Building
1112 East Grand Avenue
Des Moines, Iowa 50319

**RE: Investigative Report 02-02
Investigation of Department of Human Services Foster Care Unit Following
The Death of Former Foster Youth Reggie Kelsey
Case File No. 01-3487
Our File No. 5906.02-FOR**

Dear Mr. Angrick:

The death of Reggie Kelsey in May 2001 is a tragedy that affected all those who knew and worked to assist him in becoming a productive member of society. His death is an indictment upon the inability of our community to assist with resources to provide for their well-being. The unfortunate reality is that our community does not embrace our children in foster care. A large number of them have been abandoned by their biological and/or adoptive families. The Department does not make a good parent, however each Child Protective Worker provides what the system allows along with a part of themselves.

While under the Department's care, Reggie experienced his pinnacle of quality of life. If this is all we have to offer the children and families of Iowa we should come to understand that success will be minimal. I used all available resources (as limited as they were) to make decisions to best help Reggie succeed with his quality of life. These decisions were made by me without adequate supervision or adequate resources being made available to me.

The Ombudsman recommendations to the Department of Human Services to make changes to its rules, policies and practices, if implemented by the Department, will assist Child Protective Workers in carrying out their duties; however, by themselves are not sufficient to eliminate the potential for future tragedies such as Reggie Kelsey. If the State of Iowa is unable to make greater resources available for the care, education, development and nurturing of children, Child Protective Workers will only be able to give their best efforts and future tragedies will occur.

December 31, 2002

Page 2

As a senior worker I feel an obligation to improve our system and I encouraged you at the onset of this investigation to change the way the Department does business. This Investigation can be the opportunity to promote change, instead of your conclusion that only reflects and supports the tragic outcome. Your conclusions correctly identify the flaws in the system for delivery of services to those that we serve. Unfortunately the conclusions will not result in systemic changes to eliminate these systemic faults or errors.

At the time of placement Reggie meet the criteria for Independent Living. At the time of failure I referred him to Polk County DHS Adult & Family Service Unit on January 29, 2001. I specifically spoke with Jone Staley about Reggie's immediate need for services. Referral packets were hand delivered to Westminster and Mainstream on or about January 29, 2001.

Change that results in improved service delivery would be embraced by myself and by my coworkers. Human need are twenty four hours a day seven days a week, changes in forms alone will not result in the improvement of the system. Also, we must work as a community to successfully provide these services.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Karin Ford', with a stylized, cursive script.

Karin Ford

Response to Report by Department of Human Services



THOMAS J. VILSACK, GOVERNOR
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES
JESSIE K. RASMUSSEN, DIRECTOR

January 9, 2003

William P. Angrick II
Citizens' Aide / Ombudsman
Ola Babcock Miller Building
1112 East Grand Avenue
Des Moines, Iowa 50319

Dear Mr. Angrick:

The death of Reggie Kelsey was a tragedy, one that touched this agency deeply. For the last several years of Reggie's life, private agency providers, the schools, and DHS staff became Reggie's family. These workers arranged Reggie's funeral and, like family, agonized whether there was anything they could have done to help prevent him from taking his own life. We know that troubled youth are not often served as well as we would wish or expect, and we recognize that in Reggie's case we all could have done more.

The Citizens' Aide / Ombudsman has concluded that the DHS caseworker violated law and policy in moving Reggie to independent living; was unreasonable in deciding not to refer Reggie's case to the Polk County Transition Committee; and was unreasonable in not engaging the Adult and Family Services Unit earlier. We agree with the Ombudsman's findings that DHS should have done a better job in planning for and helping with Reggie's transition from the child welfare system. We immediately began working to strengthen transition planning for all children exiting foster care to adult services or independence. The Ombudsman's report has raised additional issues which we will be examining and addressing.

Soon after Reggie's suicide, DHS convened a community wide workgroup in Polk County composed of school, private child welfare providers, and mental health providers to identify specific ways to improve support for youth who transition from child welfare services into adult services. Due to the actions already taken by this workgroup, procedures in Polk County and for all DHS staff serving these youth have been improved and will continue to be refined. Other statewide improvements have also been made. The Iowa Aftercare Services Network was established to provide skill building and support for youth transitioning from foster care into adulthood. Legislation was enacted during the 2002 legislative session that improves communication between DHS and counties for youth who may need adult services. Communities around the state are in the process of developing plans on how to transition youth from children's services into adult services in their areas.

HOOVER STATE OFFICE BUILDING - DES MOINES, IA 50319-0114

William P. Angrick

January 9, 2003

Page Two of Two

Unfortunately, the Ombudsman's report is not complete. We hoped that the Ombudsman's report would be a comprehensive assessment of the role of key agencies that served Reggie. We believe this would provide an opportunity to learn how each of these agencies could work effectively together in the future. We believe this approach would have been consistent with the request made by Representatives Grundberg, Heaton, and Johnson for the Ombudsman to examine the "practices and procedures used by the Iowa Department of Human Services, the Area Education Agencies, and local school districts in transitioning youth out of Iowa's foster care system." We understand that individuals from these organizations were interviewed for this report. However, there are no conclusions about how effectively they carried out their responsibilities, no identification of current gaps in the system, and no specific recommendations regarding their roles that would serve to improve the transitioning of foster children out of Iowa's foster care system. We are in no way implying that other agencies did not perform their duties to the best of their abilities, merely questioning why this report focuses only on DHS. All parts of the system must fulfill their responsibilities and work cooperatively.

We agree with the Ombudsman's recommendations in principle, and we will continue to focus on how to more effectively transition children out of the child welfare system. As the Ombudsman pointed out, transitioning youth from foster care into adulthood is a nationwide issue. The answers require an improved interface between education, mental health providers, private social service providers, and state child welfare agencies. In Iowa, the fact that child welfare services are state funded while adult services are county funded provides an additional interface that may create a barrier.

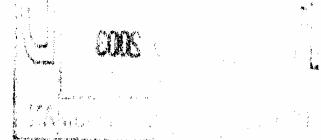
We can improve our practice and are committed to doing so. We know that our workers are competent, caring, and committed. We must caution, however, that our staff must have the necessary time it takes to do their work well, and manage the increasingly complex issues facing youth and their families. The Ombudsman has correctly pointed out "best practices" which this Department and our workers should achieve. Caseloads around the state, and particularly in Polk County, create a serious challenge to meeting these standards and the needs of the people we serve. It is becoming increasingly difficult to provide the type of casework that the vulnerable children of Iowa need and deserve. Having said this, it must also be recognized that, no matter what resources are available, not every tragedy can be averted.

Sincerely,



Sally Titus Cunningham
Interim Director

STC/lm



Ombudsman Comment to DHS Reply

It is clear much has been learned since the sad death of Reggie Kelsey. Some steps have been taken that may reduce the probability that another tragedy takes place, but there are a number of changes and actions that still need to be realized. Obviously, individuals like Reggie Kelsey become tragedies when they die – by accident, or by their own hands or the hands of others.

But there are many other ways in which a transition from foster care into adulthood can be classified as a failure. A transition to adulthood fails if the individual engages in criminal activity and enters the criminal justice system, becomes homeless, is victimized, or victimizes others. Reggie Kelsey's death punctuated the vulnerability of those who transition from foster care into adulthood without adequate assessment and coordination of necessary on-going services.

Our investigation of Reggie Kelsey's case revealed three significant decisions that were erroneous, contrary to law, policy or practice, or were unreasonable. All three of these decisions were made by DHS. The Ombudsman reviewed the roles of other public entities – the Des Moines Public Schools, the Heartland Area Education Agency 11, and Polk County – but did not identify any decisions, actions or inactions which merited criticism.

The systems for providing foster care services and adult services are complex. An efficacious transition from one system into the other requires coordination, integration, cooperation, commitment and resources. Adequate training, proper supervision, clear and thorough policies are as important to any transition as the often raised plea for additional resources and reduced caseloads.

Rather than recognizing fatalistically that “not every tragedy can be averted,” our State should strive towards the goal of “not one child lost.”